

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JOHN GORMAN,

Plaintiff,

- against - Civil Case No.: 1:14-cv-434

RENSSELAER COUNTY, SHERIFF JACK MAHAR,
ANTHONY PATRICELLI, UNDERSHERIFF PATRICK
RUSSO, COUNTY HUMAN RESOURCES MANAGER
TOM HENDRY, COUNTY EXECUTIVE KATHLEEN
JIMINO,

Defendants.

STENOGRAPHIC MINUTES OF EXAMINATION BEFORE
TRIAL conducted of Defendant, ANTHONY PATRICELLI, held on
the 20th day of June, 2016 at the Law Office of Patrick
Sorsby, 1568 Central Avenue, Albany, New York, commencing
at 10:03 a.m., before Diane Daly-Gage, a Shorthand
Reporter and Notary Public in and for the State of New
York.

1 APPEARANCES:

2 ON BEHALF OF PLAINTIFF:

3 LAW OFFICE OF PATRICK SORSBY, PLLC
4 1569 Central Avenue
5 Albany, New York 12205
6 518.545.4529
7 BY: PATRICK SORSBY, ESQ.

8 ON BEHALF OF DEFENDANTS and WITNESS:

9 MARTIN & RAYHILL, P.C.
10 421 Broad Street, Suite 10
11 Utica, New York 13501
12 315.507.3765
13 BY: KEVIN G. MARTIN, ESQ.
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15 ALSO PRESENT:

16 John Gorman
17
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24

S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED by and amongst the attorneys for the respective parties hereto, that filing, sealing and certifications are hereby waived;

IT IS FURTHER STIPULATED AND AGREED that all objections, except as to the form of the question, shall be reserved to the time of the trial;

IT IS FURTHER STIPULATED AND AGREED that the within Deposition may be signed before any Notary Public with the same force and effect as though subscribed and sworn to before this Court.

*** **

1 P-R-O-C-E-E-D-I-N-G-S

2 ANTHONY PATRICELLI,

3 (having been first duly sworn by the Notary
4 Public, was examined and testified as follows:)

5 MR. SORSBY: All right. And just for the
6 record, we're going to have the usual
7 stipulations in federal court proceedings.

8 EXAMINATION

9 BY MR. SORSBY:

10 Q Now, Mr. Patricelli, you have been to a deposition
11 before?

12 A Yes.

13 Q So these instructions that I'm about to give you may
14 be familiar. Okay?

15 A All right.

16 Q I'm going to ask you a series of questions today and
17 you are to verbalize your answer in all cases so
18 that the stenographer can accurately record what
19 your answer may be.

20 A Okay.

21 Q From time to time your attorney may object to the
22 form of the question. In which case I'll have the
23 option to rephrase if I so choose the question. But
24 under all circumstances you are to answer the

1 questions, of course, unless your attorney objects
2 on the basis of privilege or some other objection.
3 But in most circumstances you're to answer the
4 question in these depositions. It's not like being
5 at a trial. The attorneys, per our stipulation here
6 today, can only object to the form of the question.
7 Do you understand the instructions I've given to
8 you?

9 A Yes.

10 Q All right. Now, Mr. Patricelli, before you came
11 here today did you have a chance to read any
12 material regarding this case?

13 A A couple of the documents my attorney showed me.

14 Q Can you tell us what those documents included?

15 A We went over the lawsuit itself and a couple of
16 incident reports.

17 Q Did you read over the complaint in this matter?

18 A Not the whole thing.

19 Q All right. We'll start in the beginning. Can you
20 tell us when you began working for Rensselaer County
21 Sheriff's Department?

22 A Yes. I started in 1990, 12/1 of 1990, I started as
23 a correctional officer, provisional correction
24 officer. At that time I worked a year until just

1 about '91 and I had to take a civil service test. I
2 didn't score high enough on the civil service test,
3 so they laid me off for ten months. Brought me back
4 in October of '91, which I was then permanent and
5 I've been there ever since.

6 Q And where did you work before that?

7 A I think my job prior to that was Empire Engine,
8 mechanic engine installer.

9 Q Can you tell us your educational background?

10 A Graduated high school.

11 Q Now, when you went through the hiring process with
12 the sheriff's department you had to take a
13 psychological evaluation?

14 A Yes.

15 Q Do you know what the outcome of that evaluation was?

16 A No.

17 Q Did you ever get a copy of that evaluation?

18 A No.

19 Q And that evaluation was in the very beginning when
20 you began working for the sheriff's department;
21 isn't that true?

22 A Yes. I've had others too.

23 Q You've had others as well?

24 A Yes.

1 Q And you've had those other evaluations pursuant to
2 promotion to become sergeant, for example?

3 A No. To get on our ESU team, SWAT team.

4 Q When did you get on the ESU team?

5 A I don't recall the date, I'm sorry. I'm not sure.
6 I'm sorry.

7 Q And was that after you became a sergeant?

8 A Yeah.

9 Q All right.

10 A So it had to be after 2003.

11 Q All right. Now, when you took the psych evaluation
12 as part of being on the ESU, did you pass the first
13 time?

14 A I imagine so. I mean there's no results.

15 Q You didn't get a chance to look at the evaluation?

16 A No.

17 Q So that was -- you had said other times. That was
18 one time in addition to when you were first hired.
19 What's another time?

20 A When I was hired in the ESU. That was it.

21 Q That's it?

22 A Yes.

23 Q Okay. And just briefly, what does ESU stand for?

24 A Emergency Services Unit.

1 Q What do they do?

2 A We have a tactical team, do search warrants, drug
3 raids, search and rescue.

4 Q That's out of the sheriff's office?

5 A Yes.

6 Q All right. Were you on the ESU before you became a
7 master sergeant?

8 A No.

9 Q It was after you became a master sergeant?

10 A Yes.

11 Q All right. Now, that first psych evaluation that
12 you took, when you first joined the sheriff's
13 department you failed that evaluation, didn't you?

14 A I did what?

15 Q You failed the psychological evaluation, the first
16 one?

17 A No.

18 Q No. Okay.

19 A I wouldn't have been hired.

20 Q So you were hired the first time around; is that
21 true?

22 A After I was reachable. Absolutely.

23 Q Okay.

24 A Actually, I mean I was hired provisional, but I was

1 hired again after I was reachable on the list, after
2 I was laid off. So...

3 (Plaintiff's Exhibit 88 was marked for
4 identification.)

5 MR. SORSBY: I just want to note for the
6 record that we've identified a document as
7 Plaintiff's Exhibit 88. And there is a chance
8 that Plaintiff's 88 already exists. We do not
9 believe so, but to the extent that we've marked
10 another exhibit as 88, we can change that
11 numbering. We'll change that number later or
12 mark it as 88-A down the road.

13 BY MR. SORSBY:

14 Q Now, I'm going to hand you Plaintiff's Exhibit 88.
15 We've been talking about your psych evaluation when
16 you were first retained by the force. Just take a
17 few seconds to look at that.

18 (Witness examines document.)

19 Do you recognize what's been marked as
20 Plaintiff's Exhibit 88? Have you seen this
21 document before?

22 A I don't recall seeing it.

23 MR. SORSBY: Okay. Mr. Martin, can you
24 look at it while I ask him questions so we can

1 keep it moving here. This was provided in
2 discovery from you guys.

3 MR. MARTIN: He hasn't seen it.

4 MR. SORSBY: Well, he can look at it again
5 if he wanted to look at it.

6 THE WITNESS: I don't recall ever seeing
7 it.

8 MR. SORSBY: All right. Mr. Martin --
9 we'll go off the record a moment.
10 (Whereupon, a discussion was held off the
11 record.)

12 MR. MARTIN: I just want to point out that
13 Plaintiff's Exhibit 88 is a review of the MMPI,
14 which is a written test and it's not a psych
15 evaluation as it's been characterized by the
16 plaintiff's attorney and that's it.

17 So you want him to review this now,
18 something he's never seen before, my client?

19 MR. SORSBY: I'm going to ask him
20 questions about it.

21 MR. MARTIN: Okay.

22 BY MR. SORSBY:

23 Q Mr. Patricelli, do you remember taking, as your
24 attorney referred to it, an MMPI, a test?

1 A I'm not sure of the name, but yeah, I remember
2 taking one of them. You read the questions and they
3 keep asking the same questions, is that it, over and
4 over?

5 Q And did you meet with a, you'll see at the top of
6 this document, a James Butcher?

7 A I don't recall. I mean I don't recall.

8 Q Can you just read the date for us?

9 A Where is it?

10 Q Right at the top of the document.

11 A Right here?

12 Q Report date.

13 A Report date, 8, October '90.

14 Q Do you recall that being about the same time you
15 sought employment with the sheriff's department?

16 A Prior to it I think.

17 Q Okay.

18 A It's during the process, I believe.

19 Q All right. And just turn over to the second page
20 for us, please. Can you just read that paragraph
21 into the record for us?

22 A "The applicant may behave unappreciably [sic] at
23 times, simply doing what he wishes rather than what
24 others consider best. He might occasionally behave

1 carelessly or irresponsibly and manipulate others in
2 ways that hamper good working relationships."

3 Q All right. Do you behave unpredictably at times?

4 A I don't believe so.

5 Q Have there been times when you've been accused of
6 acting carelessly or irresponsibly?

7 A Yes.

8 Q And who accused you of those things?

9 MR. MARTIN: If you know. If you can
10 remember.

11 A I don't remember.

12 Q Okay. Do you remember being accused of being
13 irresponsible or acting reckless while at the
14 sheriff's department?

15 A Yes.

16 Q Okay. And when was the first incident of that?

17 A Back in 1993.

18 Q What was that incident?

19 A I brought a gun into a bar.

20 Q Do you remember the name of the bar?

21 A I'm sorry?

22 Q The name of the bar.

23 A Thomas's Tavern.

24 Q All right. And why did you bring a gun into the

1 bar?

2 A I just had a gun on me.

3 Q You were off duty, weren't you?

4 A Yes.

5 Q All right. You were in that bar earlier without a
6 gun; is that true?

7 A Yes.

8 Q And then you went back to your house and got the
9 gun; isn't that true?

10 A Yes.

11 Q And then you came back to the bar with the gun?

12 A Yes.

13 Q And you held it to the head of another man?

14 A Yes.

15 Q And the gun was loaded, wasn't it?

16 A No.

17 Q This other man was an employee of the sheriff's
18 department?

19 A Yes.

20 Q What was his name?

21 A Dave Islip.

22 Q What happened as a result of that incident?

23 A I was suspended for two weeks without pay.

24 Q Did Mr. Islip bring any charges against you?

1 A No.

2 Q Did he file an internal incident report against you?

3 A Actually, his wife did.

4 Q His wife did?

5 A His wife is the one who called the sheriff and
6 complained about it.

7 Q That wasn't Sheriff Mahar at the time, was it?

8 A No, no. That was Keating. Sheriff Keating.

9 Q All right. Now, you were suspended from work during
10 the investigation regarding that matter; isn't that
11 true?

12 A No. It was an outcome of the -- I believe it was
13 outcome of the --

14 Q It was at the outcome of it?

15 A Yes.

16 Q It wasn't during the investigation?

17 A No.

18 Q Now, isn't it also true that you had put a loaded
19 clip in your shirt pocket?

20 A No.

21 Q No?

22 A No.

23 Q So you came with an empty gun --

24 A No. I had a magazine. I unloaded the gun. We were

1 talking about guns.

2 Q Okay. You unloaded the gun?

3 A Yes.

4 Q So you had a magazine on your person?

5 A Yes, I did.

6 Q And where did you have it?

7 A I don't recall. In a pocket I imagine.

8 Q All right. Now, why did you put a gun to another
9 officer's head?

10 A He was a marine and he was talking about why I had a
11 gun in a bar, and I said for protection because
12 we're in a bad neighborhood. That's where we were.
13 That's why I went home and got a gun because we were
14 going on River Street and it was a bad area. And he
15 said I was in the marines. I can disarm anybody,
16 whatever they did, and I said no, you can't. If
17 somebody pulled a gun out on you there's nothing you
18 can do. We were in the back out of the way and it
19 got talking that basically I'll show you. So pulled
20 out the gun, the gun was clear, I go okay, now what
21 would you do. And that was that. He's like ha, ha,
22 whatever, and we let it slide and that was it. And
23 the next day I was being called in and I was being
24 investigated.

1 Q Okay. Now, who investigated you?

2 A The Highway Patrol.

3 Q That's a division of the sheriff's department;
4 right?

5 A The police, the deputies.

6 Q All right. How did they became aware of this
7 incident?

8 A The complaint from his wife. I believe she called.

9 Q Okay. And did you talk to him about the incident
10 afterwards?

11 A I don't believe so. I think I was instructed not to
12 talk to him. I mean we're friends to this day,
13 but...

14 Q All right. I just want to show you -- let's mark
15 another exhibit.

16 (Plaintiff's Exhibit 89 was marked for
17 identification.)

18 BY MR. SORSBY:

19 Q I'll show you what's been marked as Plaintiff's
20 Exhibit 89. Take a few seconds and let me know if
21 you recognize that document. We're going to go page
22 by page. Do you recognize the first page?

23 A Yes. Actually, I still got it.

24 Q All right. How do you recognize this?

1 A This is when they took my pistol permit.

2 Q Okay. This is addressed to you?

3 A Yes, it is.

4 Q Can you just read the last paragraph?

5 A "The Rensselaer County Sheriff's Department is
6 hereby directed to confiscate your pistol permit and
7 any an all handguns in your possession."

8 Q Now, it says above that, "After reviewing all the
9 witness statements I am hereby suspending your
10 pistol permit effective immediately." Do you know
11 what other witness statements were taken in the
12 investigation?

13 A No.

14 Q Okay. And you ultimately surrendered your pistol?

15 A Absolutely.

16 Q And how long were you without the firearm?

17 A Some time. I had to reapply for it. I don't know.

18 Q All right.

19 A It was quite some time.

20 Q Now, I just want to go back a little bit on this
21 particular incident. You indicated that there was
22 some discussion he's a marine and he indicated he
23 could disarm somebody. So you pulled the gun and
24 put it to his head; right?

1 A Not exactly, but it led up to that in conversation.

2 Q You ultimately put a gun to his head; correct?

3 A Yes. Pointed it at him.

4 Q All right. Now, you arrived at the bar with the
5 clip in it; correct?

6 A Yes.

7 Q All right. And then you took the clip out?

8 A Yes, I did.

9 Q And you took that clip out before you put the gun to
10 his head?

11 A Absolutely.

12 Q Okay. You took the clip out without him know that;
13 correct?

14 A I'm not sure.

15 Q You didn't take the clip out in front of him?

16 A I think it was under the course of the conversation.

17 Q With who?

18 A With him.

19 Q And you didn't clear the gun in front of him either,
20 did you?

21 A I don't recall if I did.

22 Q All right. I'm going to show you the third page of
23 this exhibit, the exhibit we've been talking about
24 the whole time. Do you recognize -- take a second

1 to look at this and tell me if you recognize this.

2 (Witness examines document.)

3 MR. MARTIN: Have you seen this before?

4 THE WITNESS: I'm trying to figure out if
5 this is the -- no, this ain't my arrest, is it?

6 Oh, okay, now I know what this is.

7 BY MR. SORSBY:

8 Q All right. You know what it is, but had you seen it
9 before today?

10 A No.

11 Q Okay. What do you understand this to be?

12 A This is where I had to surrender my weapons. They
13 wrote them down as to which ones I surrendered.

14 Q Where did you surrender them to?

15 A The sheriff's office.

16 Q Okay. Do you know Lieutenant Colonel Phillips?

17 A Eddie Phillip.

18 Q Who is that person?

19 A It was the undersheriff at first.

20 Q At first?

21 A Yes.

22 Q All right. Now, he's the one that investigated
23 this, the incident at the bar; isn't that true?

24 A I believe initially, yes.

1 Q Okay. And he interviewed you, didn't he, in regards
2 to that incident?

3 A I'm not totally sure.

4 Q Okay.

5 A I remember my arrest and sitting there with Cindy
6 Blodgett. So maybe prior.

7 Q Who's Cindy Blodgett?

8 A She was a deputy. She had to do the arrest on it,
9 of the incident.

10 Q Okay. Now, when you went back to your house to get
11 the, it's a Glock, right, a .9-millimeter?

12 A Yes.

13 Q When you went back to your house to get the gun did
14 you do it with Mr. Maselli?

15 A I don't recall.

16 Q Do you recall going back to your house with
17 somebody?

18 A Oh, that night?

19 Q Yeah, when you went back to get the gun. When you
20 went to get the gun -- you went back to the house to
21 get a gun --

22 A Yeah, I believe with Maselli.

23 Q You went with Dan; right, Dan Maselli?

24 A I believe so. We were all together.

1 Q All right. Now, this is back -- again, this is in
2 the beginning part, well, in the early '90s. While
3 we're on this, what's your relationship with Dan
4 Maselli?

5 A He's a friend of mine.

6 Q And was he a friend before this incident?

7 A Absolutely.

8 Q For how long, do you know?

9 A Since we started working together. Since 1990.

10 Q Did you know him before that?

11 A No.

12 Q So you met him while you began working at the
13 sheriff's department?

14 A Yes.

15 Q All right. I just want to turn to the last page
16 real quick on this exhibit and then we'll be done
17 with it.

18 A This one?

19 Q Yes.

20 A Okay.

21 Q Just take a second to read that and let me know if
22 you recognize that?

23 (Witness examines document.)

24 Do you recognize that document?

1 A Yes, I do now.

2 Q Is that your signature at the bottom?

3 A Yes, it is.

4 Q Do you recall giving this Voluntary Statement?

5 A Vaguely.

6 Q Okay. All right.

7 (Plaintiff's Exhibit 90 was marked for
8 identification.)

9 BY MR. SORSBY:

10 Q All right. Now, just to finish this line of
11 questioning and keep the record complete, I'm going
12 to show you what's been marked as Exhibit 90.
13 You'll see two names at the top. I believe one is
14 Lieutenant Colonel Phillips. Do you see that?

15 A Yes.

16 Q Okay. And he was the deputy sheriff you were
17 indicating at that time?

18 A No.

19 Q What was his position? Undersheriff?

20 A I believe he was like -- they changed. So he was --
21 I think the undersheriff was Dwyer. And after Dwyer
22 they made him, they bumped him out of the
23 undersheriff, they made him a lieutenant colonel or
24 something. He's still a big administrator. And

1 then the other guy is Captain Walread. He was head
2 of the Highway Patrol.

3 Q Okay.

4 A Larry Walread.

5 Q Had you seen this document before? I'll let you
6 take a look at it again.

7 A Have I seen it before when? Just now?

8 Q Have you seen it before today? Correct. There's a
9 second page to it as well.

10 A Oh. No, I don't recall seeing this.

11 Q All right. I'll take it back from you.

12 A Can I just look at it?

13 Q Yeah, go ahead.

14 Now, I'm reading from Exhibit 90 and it
15 says, "Dan Maselli was the only witness who tells
16 the same story." Do you recall who the other
17 witnesses were? Can you identify who the other
18 witnesses were?

19 A We were out with a bunch of people, but I don't
20 believe that they were around. Like I said, I went
21 to the back with Islip.

22 Q Was Dan there with you?

23 A I don't recall.

24 Q Okay. You just recall --

1 A It was just me and him talking.

2 Q You and who? Islip?

3 A Yes, Islip.

4 Q Do you know who Bob Anslow was?

5 A He was a CO.

6 Q Was he there?

7 A It's been a long time.

8 Q All right. John Rieckert?

9 A Rieckert is his name.

10 Q Was he there, if you recall?

11 A Yeah. I mean after reading this it says that I put
12 down here. So...

13 Q All right. Now, in your time as -- in your time of
14 employment with the sheriff's department were you
15 ever disciplined for excessive sick time usage?

16 A Excessive? I don't believe I did. I got
17 disciplined for calling in sick from the parking
18 lot. But I don't remember using a lot of sick time.
19 I don't know, honest to God.

20 Q Why would that have been a problem calling in?

21 A That's not what you do.

22 Q That's not policy?

23 A No. I was disgruntled, walked out and said mark me
24 out for tomorrow.

1 Q Did that happen on more than one occasion?

2 A No. I got a write-up and I learned from it.

3 Q All right. Just to clarify: There was never a
4 problem with you taking more sick time than you were
5 entitled to?

6 A Not that I recall.

7 Q Okay. By the way, were you disciplined for calling
8 in sick while in the parking lot?

9 A I got a write-up.

10 Q You got a write-up?

11 A Yeah.

12 Q Was that a verbal warning or a first incident?

13 A Written type.

14 Q All right.

15 A It was a write-up.

16 Q I just want to double back real quick on the
17 incident with the bar. Were there ever any criminal
18 charges filed against you in that matter?

19 A No.

20 Q Okay. And it was a loaded weapon. So do you know
21 what policy -- I mean it wasn't a loaded weapon, but
22 you put a pistol to somebody's head. Do you know
23 what policy you violated so you would've been
24 suspended?

1 MR. MARTIN: Object to the form of that
2 question, but you can answer.

3 A I don't know. I honestly don't know.

4 Q All right. What's your opinion do you feel is
5 appropriate to put the gun to his head?

6 A Bad judgment. I made a mistake.

7 Q Now, have you ever had any trouble with the police
8 whatsoever?

9 MR. MARTIN: Object to the form the
10 question, but you can answer.

11 A I had a DWI when I was a kid or ability impaired or
12 whatever.

13 Q You were a kid at the time?

14 A Yeah. I think I was 18.

15 Q All right. Other than that charge driving with your
16 ability impaired, have you been charged with any
17 misdemeanor?

18 A Are you talking current? I mean I'm sure you're
19 going to get into it.

20 Q Up until the complaints filed by Mr. Gorman, before
21 that time were you charged with any misdemeanors?

22 A Not that I can tell.

23 Q How about felonies?

24 A Before him?

1 Q Yes.

2 A No.

3 Q And what about violations other than the driving
4 while ability impaired?

5 A I don't know.

6 Q Did you ever get a speeding ticket?

7 A Oh, yeah.

8 Q Okay. Now, on that bar incident did you actually
9 appear before Judge McGrath?

10 A No. He sent me a letter.

11 Q Sent you a letter?

12 A Absolutely.

13 Q All right. So I'd like to talk to you a little bit
14 about the chain of command in the sheriff's
15 department. Do you understand?

16 A Sure.

17 Q Now, you started out with the sheriff's department
18 as just a deputy, is that the correct term?

19 A No. Correction officer.

20 Q Correction officer. Okay.

21 And at some point you became a sergeant?

22 A No. 1994 I became a corporal.

23 Q All right. And then how long were you a corporal?

24 A Until 2003 or 2002. Just before the sheriff came in

1 I believe.

2 Q And then what happened?

3 A And then I took a test and I was reachable and they
4 made me a sergeant.

5 Q So you were made a sergeant before Sheriff Mahar
6 came in?

7 A Yes.

8 Q And to be clear, you were made an official sergeant.
9 You weren't provisional?

10 A No. Absolutely. I was a permanent sergeant.

11 Q All right. In your time as a corporal and a
12 corrections officer can you tell us just briefly
13 what type of training you had in regards to that
14 position, being a corporal that is?

15 A Being a corporal I went to supervisor school, first
16 aid, CPR, oh, God there's so...

17 Q Now, again, for the untrained person, you went to
18 supervisors school when you became a corporal. Is
19 that because you were in a supervisory capacity at
20 that time?

21 A Yes.

22 Q Where was the supervisor school at?

23 A I can't remember where ours was. It might've been
24 in our facility.

1 Q Do you know how long the course is?

2 A I think it was a couple of weeks.

3 Q A couple of weeks. Okay.

4 A I'm sorry, I'm bad with dates and stuff.

5 Q That's okay.

6 Do you remember in that course if they
7 taught you about reporting incidents of workplace
8 violence?

9 A I don't think we had it back then. That just all
10 kind of, as far as I remember, just starting coming
11 out.

12 Q What do you recall was the focus of that supervisory
13 school?

14 A Just how to supervise your staff. I mean I don't
15 recall.

16 Q It involved what to do in terms of supervising your
17 staff in regards to prisoners acting unruly, things
18 of that nature?

19 A Yes. How to deal with them as far as, you know,
20 informal and formal discipline.

21 Q Now, you became a master sergeant at that point?

22 A Yes.

23 Q And how did you do that?

24 A The sheriff gave me a master sergeant.

1 Q All right. That's not a position as part of the
2 civil service?

3 A No.

4 Q That's created by the sheriff?

5 A Yeah. We had both the first sergeant and a master
6 sergeant position there.

7 Q How long after the sheriff came into his position
8 were you appointed? Was it months, a year, do you
9 know?

10 A I don't recall.

11 Q Was it shortly after?

12 A I don't recall, honestly. I think it was in 2003,
13 or late 2003 maybe.

14 Q Okay.

15 A I'm sorry, I don't remember.

16 Q Now, you had known the sheriff before then, hadn't
17 you? It wasn't the first time you met him when he
18 became sheriff; right?

19 A Oh, no. I worked with him. I worked with his guys
20 down in Troy Police.

21 Q In fact, you'd come and visit the Troy Police and
22 have conversations with him. That's how you got to
23 know him?

24 A Yeah. I mean I'd mainly be there for the guys, but

1 he'd be their captain.

2 Q Was that your role in the ESU?

3 A No. I used to go out back when Keating was there.

4 They allowed me to go out with the task force, drug

5 task force. So as I used to work out on the street

6 doing again, drug stuff, drug buys, drug

7 investigations.

8 Q Had you known Sheriff Mahar before you began working

9 at the sheriff's department?

10 A Before I began?

11 Q Correct.

12 A No.

13 Q All right. So the first time you met him was

14 through the sheriff's department and in his role at

15 the Troy Police Department?

16 A Yes.

17 Q Now, the master sergeant, where does that fall

18 within the chain of command?

19 A Just over the sergeants. It did. It's no longer

20 either title. The new undersheriff got rid of

21 titles.

22 Q All right.

23 A Or the new Chief of Corrections.

24 Q So there's correction officer, there's corporal;

1 right?

2 A No corporal anymore.

3 Q I'm talking about then.

4 A Oh, then?

5 Q Yes. When you were there.

6 A It went CO, corporal, sergeant, lieutenant captain
7 and then the other side, you know. What the hell
8 did they use to call them? The superintendent.

9 Q Superintendent of the jail?

10 A Of the jail. Then undersheriff and sheriff.

11 Q All right. And notably left out of that was where
12 does the master sergeant fall into that?

13 A There was never one.

14 Q I'm asking -- but you were a master sergeant;
15 correct?

16 A Yes. But you said at the time we're talking.

17 Q Yeah, I'm talking during that time. Where was --

18 A There was no title there of that.

19 MR. MARTIN: What time are you talking
20 about? When you first got hired.

21 THE WITNESS: I think he's talking about
22 when I was corporal.

23 BY MR. SORSBY:

24 Q No. You were appointed as a mater sergeant?

1 A Oh, I'm sorry, you confused me.

2 Q That's all right. You were appointed as a master
3 sergeant by the sheriff?

4 A Yes.

5 Q So I'm asking during that time frame, you just gave
6 me the chain of command, where did the master
7 sergeant fall?

8 A Just over sergeants.

9 Q All right.

10 A Just over sergeants, below lieutenant.

11 Q And who did you routinely report to?

12 A Dave Hetman, H-E-T-M-A-N. But I mean they all had
13 say over me. Jimmy Karam a lot, because I worked
14 pretty close with him on a lot of investigations.
15 He had me help him with stuff. And Lieutenant Dave
16 Hetman, and occasionally Hal Smith, the captain.

17 Q So you reported to them. They were your
18 supervisors?

19 A They were all my supervisors. Ultimately I reported
20 to Dave Hetman, was the one I was most interactive
21 with.

22 Q Okay. Isn't it also true that you had a lot of
23 contact with the sheriff as well?

24 A I mean we were friends, but not a lot. I mean I

1 talked to him occasionally.

2 Q Now, the chain of command would generally dictate
3 that you would take whatever issues you had to your
4 commanders above you and not go right to the
5 sheriff; is that true?

6 A Yes.

7 Q But isn't it true that you would routinely go to the
8 sheriff with problems that you had in the workplace?

9 A No.

10 Q That's not true?

11 A No.

12 Q Did you go to the sheriff with problems that you had
13 in the workplace?

14 A Yes, I did. One time.

15 Q One time? Okay.

16 A That you're probably getting to. Yes.

17 Q Well, we very well may get to that point. But I
18 want to know just generally did you go to him often?

19 A No, not for problems. He was my friend. We had
20 that relationship. I could talk to him.

21 Q So you would talk to him about not problems, but
22 other things as a friend. That's what you're
23 indicating?

24 A Absolutely.

1 Q Would you talk to him while you were at work?

2 A Sure.

3 Q All right. And you would also talk to him about
4 things that were going on at the jail, not
5 necessarily problems, but things going on in the
6 jail; is that true?

7 A Or vise versa, yes.

8 Q And additionally because you were friends with the
9 sheriff you would every week have a conversation
10 with him, maybe not necessarily related to work, but
11 you would go and have conversations with him; isn't
12 that true?

13 A Sure.

14 Q And you would have conversations with him while he
15 was working at the sheriff's department; correct?

16 A Yes.

17 Q Now, I know you were friends and I just want to get
18 an idea of how often you would talk with the
19 sheriff.

20 A Whenever I'd see him. I'd greet him, we'd catch up,
21 just like a friend would do.

22 Q All right. Now, other corrections -- based on the
23 chain of command would it be inappropriate for other
24 correction officers to just approach the sheriff

1 without going through the chain of command first?

2 A It was kind of a loose chain of command, because a
3 lot of people did that. A lot of people talked to
4 him. He kind of had an Open Door policy, to be
5 honest with you.

6 Q He had an Open Door policy?

7 A Yeah. A lot of people talked to him. Even COs
8 under me talked to him.

9 Q And you're saying they were encouraged to come and
10 talk to him?

11 A Yeah. They were able to go talk to him. I by no
12 means was the only one.

13 Q All right. Let's just talk about your friendship
14 with the sheriff. I want to talk about that a
15 little bit more. You would go to events with him?

16 A Yeah. We went to a couple of bike things. Rode our
17 bikes. He had a motorcycle, I had a motorcycle. I
18 mean we did it pretty much, but then when he got a
19 girlfriend it all kind of stopped.

20 Q When you say bikes, like Americade?

21 A Yeah, we went to Americade a couple of times.

22 Q When did he get a girlfriend? You said a
23 girlfriend.

24 A I don't recall. I mean but when he got a girlfriend

1 things kind of petered off. Just after he left his
2 wife and in between there we were kind of, you know,
3 hanging out. But then after that it got pretty...

4 Q Not as much?

5 A Not as much at all. No.

6 Q Okay. Now, there came a time when the sheriff would
7 have you do things for him? As the master sergeant
8 he would give you orders to do things?

9 A More like what he seen he wants corrected. Walk
10 through the door, the gates are open, you know
11 cigarette butts all over outside, people taking
12 extra breaks, shit like that. Sorry.

13 Q So there was a problem with people taking extra
14 breaks?

15 A Oh, yeah.

16 Q A significant problem?

17 A Yeah.

18 Q And he brought that your attention?

19 A Yeah. I mean he'd walk in from the front.
20 Actually, it was my friend was one of the biggest
21 ones.

22 Q Which friend was that?

23 A Maselli. He'd be coming in the parking lot and this
24 kid would be here with his foot up.

1 Q Taking long breaks. Okay.

2 A Out there he's like, Jesus, the guy's out front all
3 the time.

4 Q So that was brought to your attention by the
5 sheriff?

6 A Absolutely.

7 Q And he had you address it?

8 A Address it, yes.

9 Q All right. And cigarette butts?

10 A Yeah. People would go out and smoke and they'd
11 throw their stuff all over the grass.

12 Q How did he have you address that?

13 A To deal with it. I tried, but that was to no avail.

14 Q And these people, these offending people, were they
15 sergeants, corporals?

16 A Some were sergeants.

17 Q Some were sergeants?

18 A Yeah. A wide variety.

19 Q All right. Widespread. Cigarette butts, breaks.
20 What were some of the other problems that the
21 sheriff --

22 A Gates open.

23 Q Gates to the prison?

24 A Yeah. Down the hallways we have gates that block

1 off a whole hallway. Control room would have them
2 wide open.

3 Q People would leave them open. All
4 throughout different parts of the jail?

5 A Yeah, on occasions. I mean not like somebody can
6 escape, but it's the gate is there. It's supposed
7 to be closed.

8 Q How did you deal with those problems?

9 A Just talked to the guys.

10 Q Did you write anybody up for that?

11 A I wrote one guy up for the cigarettes. Just got to
12 the point where he just wasn't listening. Just
13 wouldn't listen, so he had to get a write-up.

14 Q It wasn't Dave Maselli, was it?

15 A It was Dave Higgins, sergeant.

16 Q So you wrote him up for that?

17 A Yeah.

18 Q All right. In leaving the door open, leaving the
19 doors open, were there sergeants that also did that
20 too? Were they some of the offenders?

21 A They were watching -- I mean they were there.

22 Q All right. And you said corporals. You had found
23 some corporals were making these mistakes as well;
24 right?

1 A Not corporals, sir. Just sergeants. I would mainly
2 go to the watch commander and let them know.

3 Q So what I'm trying to understand is you were the
4 master sergeant, and I'm trying to understand why --
5 I mean these sergeants that we're talking about
6 corrections officers, they weren't within your chain
7 of command; isn't that true?

8 A No, not at all. Of course they were. Anybody under
9 me was in my chain of command.

10 Q So all of the sergeants were under your chain of
11 command?

12 A Absolutely.

13 Q Were corporals under your chain of command?

14 A There was no corporals.

15 MR. GORMAN: There's no corporals at that
16 time. They did away with the position, just so
17 you understand.

18 Q Okay. But at that time were there corporals at the
19 time? At the time we're talking now?

20 A No. The corporals stopped maybe in 2000, somewhere
21 in there he incorporated anybody that was a
22 corporal. Most people had to take a test to become
23 a sergeant. It was another advancement. But the
24 sheriff -- actually, I'm sorry, I recall that. He

1 allowed the corporals to get grandfathered in. So
2 they went by seniority. The corporals went into
3 being a sergeant, is what happened. And he made
4 everybody on a clean slate as far as sergeants are
5 concerned. There was no more lower rank corporal.
6 That's how that worked now that I'm thinking about
7 it.

8 Q Okay. So if the sergeants -- so if the sergeants
9 reported to you --

10 A I'm sorry, go ahead.

11 Q Well, the sergeants reported to you, then you
12 reported to the lieutenant captain?

13 A In a perfect world, yeah, like if you're trying to
14 break it down like that. But it was kind of a loose
15 type chain of command.

16 Q How was it loose?

17 A So if I found issues, I would go to the watch
18 commander, rather than go in there and write
19 everybody up and everything, you know, this is a
20 problem on your shift, you need to take care of this
21 or you need to take care of that. They may go about
22 their business and do whatever was necessary. You
23 know my history there I didn't have too many
24 writes-up on people. Normally I could talk a grown

1 man that's 30 years old and say, look you made a
2 mistake, fix it, and they do it.

3 Q Why didn't the sheriff go to the captains of those
4 sergeants?

5 A Oh, he did.

6 Q Did he?

7 A He went to the captains also -- the captain, and
8 told it him about it.

9 Q But in a lot of cases he would just go directly to
10 you?

11 A Well, my title was master sergeant. Basically I
12 dealt with security issues; drugs coming in the
13 facility, gang members track and monitor them, any
14 kind of security issue. Obviously gates being open
15 is a security issue, stuff like that.

16 Q So the breaks and the cigarette smoking was a little
17 bit outside of that?

18 A Yeah. But it was also a breach in obviously -- not
19 a breach as far as -- but the break schedule, all
20 that stuff.

21 Q Okay. Now, there came a time when -- you know who
22 Ruth Vibert is?

23 A Yes, I do.

24 Q And how do you know Ruth Vibert?

1 A She was our chief.

2 Q Okay. And there was a time when she wasn't a chief,
3 or did she come in as the chief directly?

4 A Come in as the chief.

5 Q Okay. Now, did you -- now, you received orders from
6 Chief Vibert in your capacity as a master sergeant?

7 A Rarely. Rarely. She kind of had me go do my thing.
8 I knew my job. Unless something new popped up to
9 tell me, normally I go do my job.

10 Q So you received orders from her, but you didn't
11 follow every order you received from her; isn't that
12 true?

13 A Not, that's not true. If she told me to do
14 something, I'd do it.

15 Q You followed every order?

16 A Yes.

17 Q All right.

18 MR. SORSBY: Let's go off the record a
19 second.

20 (Whereupon, a discussion was held off the
21 record.)

22 BY MR. SORSBY:

23 Q Back on the record.

24 Now, there came a time when Chief Vibert

1 ordered you to give a gang report to the staff;
2 isn't that true?

3 A Yes.

4 Q And you didn't follow that order, did you?

5 A I put a presentation together. Absolutely.

6 Q You issued a gang report to the staff?

7 A I put a presentation together.

8 Q What was the presentation?

9 A On gangs.

10 Q And you made that presentation to who?

11 A I received an e-mail from Ruth after a little
12 falling out we had. I received a lot of e-mails
13 from Ruth after that. And one of them said prepare
14 this and have it on my desk by whatever time on this
15 date. So I did it. And it was on her desk
16 however -- it was forwarded I believe to Scotty Roy
17 to present it, because he was -- he had a training.
18 But yes, she did instruct me to do it and I did it
19 by her deadline.

20 Q Okay. Now, I just want to talk to you a little bit
21 about your relationship with Sheriff Mahar. Do you
22 understand?

23 A Yes.

24 Q Now, had you ever been to the sheriff's home?

1 A Absolutely.

2 Q And what was the basis of going to his home?

3 A Going there for dinner. I've gone there to help him
4 work on his house. I've gone there for function,
5 Easter, I think when -- his reception maybe, when he
6 got married.

7 Q You were at his wedding?

8 A No, I did not go to the wedding.

9 Q Just the reception?

10 A Just the thing at his house, yes.

11 Q All right. Now, you visited his home often. And
12 did that happen also before he became sheriff when
13 he was working at the Troy Police Department?

14 MR. MARTIN: Object to the form of the
15 question.

16 Q Let me just rephrase the question.

17 Did you visit the sheriff's house when he
18 worked for the Troy Police Department?

19 A No.

20 Q Okay. Do you have any idea how many times you've
21 visited the sheriff's house?

22 A No.

23 Q Has the sheriff ever been to your house?

24 A Yes.

1 Q What was the basis for coming to your house?

2 A Actually, I believe he came to one of my kids'
3 birthday parties.

4 Q Okay.

5 A And he'd stopped by if he was on a ride on the bike
6 or something, you know.

7 Q Okay. Had he been to your house a lot, often?

8 A No. I live in an apartment and stuff, in the city.

9 Q Now, fast forward real quick. You're back at the
10 sheriff's department as a...

11 A As a sergeant.

12 Q As a sergeant. Right. Do you know is Dan Maselli
13 still a sergeant there?

14 A He retired.

15 Q Okay.

16 A He retired as a correction officer. He gave up his
17 stripes.

18 Q Okay. We'll come back to where we are now in a
19 little bit.

20 Do you have any idea why he gave up his
21 stripes and retired as a correction officer? Did
22 something happen?

23 A He said they were messing with him.

24 Q Who's they?

1 A Administration.

2 Q Okay. Do you have an idea of what they did?

3 A No idea. Dan sometimes is his worst enemy.

4 Q How's that? Other than taking breaks he shouldn't
5 take.

6 A Just, you know, he sometimes gets caught up in the
7 bullshit, you know what I mean?

8 Q Yes. Bullshit at work are you referencing?

9 A Yeah. You know just knew policies come out, he
10 takes it to heart. Just things he shouldn't really
11 concern himself with. He puts undo stress on
12 himself. But I mean I don't know. That's his own
13 person. I don't know. And that's actually the
14 decision he made when I was out.

15 Q Okay. And that would've been while Mahar was still
16 the sheriff?

17 A Yeah, I believe he did give them up when Mahar was
18 the sheriff. Yep.

19 Q So the issues he was having with the administration,
20 that would've been with Russo, Mahar?

21 A Not them. Like Hal Smith and Bly. He didn't get
22 along with the new chief there.

23 Q Okay. Now, the new Chief Bly, did he take Ruth
24 Vibert's position?

1 A Yes, he did.

2 Q All right. Are you aware of any other employee at
3 the sheriff's department that has given up his
4 stripes as a sergeant?

5 A Yeah, quite a few; Paul Barker. Let me think now.
6 I know there was others. I just got to think.
7 There's got to be one or two more.

8 Q Do you know why Paul Barker gave up his stripes?

9 A I have no idea.

10 Q What about these other individuals? Was it problems
11 with the administration again?

12 A Well, that has to do with we can be placed. They
13 can take us and put us on any shift. So people
14 don't like being in limbo; you know, are you going
15 to be moved this year, are we going to be moved. A
16 lot of them have kids.

17 Q When you say we, the sergeants can be placed
18 wherever?

19 A Absolutely.

20 Q And if you're a correction officer?

21 A No. You have seniority. You can bid your spot.
22 Sergeants you can't. They never have.

23 Q Okay.

24 A And then for their own personal reasons that they

1 gave them up. I have no idea.

2 Q Okay. Do you recall giving a deposition in a matter
3 involving Ruth Vibert against the Rensselaer County
4 Sheriff's Department?

5 A Yes.

6 Q That was before a Mr. Keach. Do you remember that
7 name?

8 A Yes.

9 MR. SORSBY: Let's take a two-minute
10 break. I have to set something up. It's an
11 audio. If you need to go to the bathroom, this
12 would be a good time.

13 (Whereupon, there was recess during the
14 proceedings.)

15 BY MR. SORSBY:

16 Q So we are going to fast forward to October of 2012.
17 Do you understand?

18 A Yes.

19 Q So that's the time frame we're dealing with right
20 now.

21 A Okay.

22 Q So on or about October 1st, 2012 Kim Gorman ended
23 her relationship with you; isn't that true?

24 A Yes.

1 Q And can you tell us if you remember the exact date
2 that happened?

3 A I don't remember.

4 Q It was that first week in October 2012?

5 A Could've been. I mean probably in that area.

6 Q You believe it to be?

7 A Yes.

8 Q All right. And she ended the relationship with you
9 because she believed you were having an affair?

10 A Yes.

11 Q And up until that point you had been in a
12 relationship with her for about 27 years; isn't that
13 true?

14 A Yes.

15 Q And you had a child together?

16 A Yes.

17 Q What's the child's name?

18 A Zachary.

19 Q How old is he now?

20 A 16.

21 Q How old was he then, do you know?

22 A Twelve.

23 Q All right. Now, after Kim ended the relationship
24 with you, at some point after that same day you

1 called John; isn't that true?

2 A I recall that I did.

3 Q You recall calling John after she broke up with you?

4 A Yes.

5 Q How long after? Was it that day, the next day, a
6 couple of days?

7 A I don't recall.

8 Q Now, during that phone call with John -- let's back
9 up.

10 You call John on your cell phone?

11 A At one time, yes.

12 Q Okay. For this particular incident you called John
13 while he was at work; isn't that true?

14 A Which one?

15 Q We're still in October. We're going to go in a
16 timeline fashion. October 2012, week of October you
17 testified that Kim broke up with you.

18 A Yep.

19 Q And you've said that you did contact John
20 thereafter. You don't know when.

21 A Yeah. The first time --

22 Q Okay.

23 A -- is that what you're asking me?

24 Q Yes. The first time.

1 A Okay. I don't know whether it was on a cell phone.
2 The second time was on a cell phone. I called him
3 at his house.

4 Q We're still on the first time.

5 A Okay.

6 Q So the first time you call John is while he was at
7 the jail; correct?

8 A Correct.

9 Q All right. Give me one second. I just want to pull
10 something up.

11 Now, during that phone call to Mr. Gorman
12 when you called the first time at the jail...

13 A Yes.

14 Q You said something to the effect of, "thank your
15 brother, thank your wife, thank you." Isn't that
16 true?

17 A Yes.

18 Q And I just want to play an audio for us. Okay?

19 A Sure.

20 Q Actually, I'm going to play it so the court
21 reporting can hear it as well.

22 (Whereupon, a discussion was held off the
23 record and the following is a transcribed
24 version of audio recording:)

1 MR. GORMAN: "Sergeant Gorman.

2 MR. PATRICELLI: Hey.

3 MR. GORMAN: What's up?

4 MR. PATRICELLI: I forgot to thank you
5 today.

6 MR. GORMAN: What's that?

7 MR. PATRICELLI: You have to thank your
8 wife for me.

9 MR. GORMAN: What's the matter?

10 MR. PATRICELLI: It's no big deal. Just
11 make sure you thank her for me. Your brother
12 too when you talk to him. Okay?

13 MR. GORMAN: I have no idea what you're
14 talking about, but all right.

15 MR. PATRICELLI: Okay. You have a good
16 day."

17 BY MR. SORSBY:

18 Q All right. So you recognize this conversation?

19 A Yes.

20 Q And do you recognize this as being what you said
21 over the phone when you called him on that first
22 phone call?

23 A Yes.

24 Q The same phone call you had when you called him at

1 the jail?

2 MR. MARTIN: Object to the form. Do you
3 understand?

4 Q Do you understand the conversation we just heard to
5 be the conversation --

6 A Yes, I called him.

7 Q Well, let me finish the question. That you had with
8 Mr. Gorman when you called him at the jail?

9 A Yes.

10 Q Okay. Let me just close this down for a second.

11 (Brief pause.)

12 Were you working that day?

13 A Earlier in the day I believe.

14 Q All right. But when you called him you were off
15 duty?

16 A Yes.

17 Q And you were at home?

18 A Yes, I believe so.

19 Q And you made -- you called him with your department
20 issued cell phone?

21 A Not that time I don't believe.

22 Q Not that time?

23 A I don't believe so.

24 Q You don't know though; is that true?

1 A Not for sure.

2 Q Do you recall?

3 A No.

4 Q Okay. What was the purpose of the phone call?

5 A Prior to that phone call John come to my office at
6 least three or four times letting me know how people
7 are talking and giving rumors in the jail of my
8 alleged affair, and I had asked him to tell me who,
9 who was it, whatever. He said it doesn't matter. I
10 just want to make you aware of it, you know. Well,
11 bring them here and I'd like to talk to them about
12 it. Back at that time a lot of bad things were
13 going around that jail as far as election time. A
14 lot of people didn't already care for me, spread
15 rumors, try to start trouble with me. That's why I
16 wanted to bring him there and we'd see what he had
17 to say and what the truth was. Again, it's my
18 personal business anyway. It shouldn't be spread
19 around the jail. But he refused to do so and said
20 that he's not going to say nothing and that'll be
21 that. When I made that phone call, prior to that I
22 had a conversation with Kim who told me how she
23 found out, all this stuff and how basically I was --
24 felt like I was being attacked by him and his

1 family. So that's why I said hey, thank them all.
2 Basically you told me you weren't going to say
3 nothing, so thank you all. That's all.

4 Q You felt you were being attacked by the Gorman
5 family?

6 A Yeah, kind of. He come into my office telling me
7 one thing and then does another.

8 Q Okay. Does another in terms of what?

9 A He said he wasn't going to say nothing and that it's
10 all bullshit rumors anyway. Until he has facts he's
11 not going to do anything. Which then right after he
12 did it.

13 Q Now, who's the person that you allegedly had an
14 affair with?

15 A Jenelle Waite.

16 Q She was a state trooper; right?

17 A Yep.

18 Q And did you have an affair with her?

19 A Yes, I did.

20 Q All right. How long was the affair?

21 A I don't even remember. Quite a while. We had
22 problems, me and Kim. It was our own personal
23 problems. Nothing to do with him or any of his
24 family. It was between me and Kim. But we dealt

1 with it, whatever, and I wasn't -- I probably didn't
2 make the right choice. Should've just left, but I
3 didn't. I tried to stick it out for the kid or
4 whatever and kind of made a bad choice.

5 Q How long before this phone call with Mr. Gorman had
6 you been in a relationship with her, Ms. Waite?

7 A How long before?

8 Q How long were you in a relationship with her before
9 that?

10 A I'm not sure.

11 Q A year?

12 A Probably.

13 Q Two years?

14 A Probably over. A couple of years.

15 Q All right. And before that you had been in a
16 relationship with a Wendy Vega; isn't that true?

17 A No.

18 Q A corrections officer?

19 A No. Actually, when I first started in the jail we
20 messed around a little bit, but nothing --

21 Q You messed around a little bit with her?

22 A Yeah.

23 Q All right. It wasn't a long-term relationship with
24 her?

1 A No.

2 Q You don't consider it an affair. You were messing
3 around with her?

4 A I guess it was an affair.

5 Q Okay. And Alexis Johnson?

6 A I hung out with her.

7 Q You also had relationships with her too, didn't you?

8 A Yeah. A couple of times.

9 Q All right. And isn't it true that during this time
10 frame that there was a lot of rumors around the jail
11 about you having affairs; isn't that true?

12 A No.

13 Q There were rumors of you having an affair?

14 A If there was, they never got to me.

15 Q You're not aware of any rumors of you having an
16 affair?

17 A No. I kept my personal business out of that jail.

18 Q All right. So why did you call Mr. Gorman -- you
19 said you called him because there was lies being
20 spread about you; right?

21 MR. MARTIN: Object to the form. You can
22 answer if you can.

23 A What I told you is I called him because prior to all
24 this he came to my office telling me about it and

1 told me he wouldn't saying anything. However, he
2 did say something, which caused a lot of problems.

3 Q I guess what I'm asking is how do you know he said
4 something --

5 A His sister told he.

6 Q Okay. That was the only --

7 A Who I trust.

8 Q All right. Did she indicate to you only Mr. Gorman
9 told her?

10 A No. Her and her other brother too.

11 Q Now, when you called him why did you say thank his
12 wife?

13 A Because she was in on it too.

14 Q How do you know that?

15 A Because conversations with Kim. Not so much knowing
16 my affairs, but obviuosly translating what John
17 said.

18 Q She told you that Kim was involved in what?

19 A You misunderstood me.

20 Q Okay. How did you know --

21 A Kim told me that these people told her about
22 everything.

23 Q So she told you that Mr. Gorman's wife told you
24 about --

1 A They had a talk. Everybody knew about it but her,
2 blah, blah, blah.

3 MR. MARTIN: That's what Kim said?

4 THE WITNESS: Yes.

5 BY MR. SORSBY:

6 Q Now, the audio may not record the whole conversation
7 that we just heard. Do you recall that there was
8 more to the conversation that we just heard?

9 A Negative. There was none.

10 Q Do you recall saying in addition to thank your
11 brother, thank your wife and thank you, "you will
12 pay"?

13 A No, absolutely not. You heard goodbye at the end of
14 it.

15 Q I'm asking you.

16 A No, I'm sorry, but no.

17 Q And you that hung up the phone on Mr. Gorman?

18 A I think it was mutual. Said goodbye.

19 Q Right.

20 A Obviously that's a jail call taken off our system,
21 which I don't know how he got that. But that would
22 record the call from end. Even if the line was
23 open, it would still record.

24 Q Okay. So the phone calls and recordings on the

1 phones at the correctional facility, do those get
2 certified? Do those recordings get certified
3 ultimately, do you know?

4 A When they're for court and stuff.

5 Q Do you know how long those are typically kept?

6 A Ninety days.

7 Q Ninety days. All right. Now, bear with me one
8 second.

9 Mr. Patricelli, I asked you earlier about
10 whether or not -- about a deposition that you had
11 given in the matter of Vibert versus Rensselaer
12 County, do you recall that?

13 A Yes.

14 Q So I'm going to read some questions for you that are
15 from that transcript. Okay?

16 A Okay.

17 Q Okay. All right. Now, Keach is asking you about
18 the relationship with Sheriff Mahar and he's asked
19 you. "All right. So why did your relationship
20 deteriorate from being good where you would go to
21 his home frequently and he would come to yours, to
22 now where you don't speak to him?" And you
23 answered, "I feel as though they kind of held me out
24 to dry on a situation that I was involved in." Can

1 you elaborate on that, what you meant by that?

2 A Sure. What happened was, I was arrested for two
3 felonies and a misdemeanor for asking a coworker to
4 see if a guy had warrants, and it was John's doing,
5 but they -- I didn't receive a phone call, nothing.
6 I called to let them know I was arrested, but I
7 didn't get a call back. So I was basically on my
8 own.

9 Q So let's back up. You said you looked up warrants
10 on a coworker?

11 A I asked to have -- no. A warrant for Kim's -- a guy
12 that Kim was dating.

13 Q Okay. So you asked a coworker, is that what you
14 were saying --

15 A Yes.

16 Q -- to look up warrants?

17 A Yes.

18 Q And do you recall the name of that person that you
19 were looking up?

20 A Peter Colantonio.

21 Q All right. And you said you had been arrested and
22 you placed phone calls to the administration and
23 they didn't return your call?

24 A Yes. The day I was arrested I tried to call the

1 sheriff to let him know. He didn't call me back.
2 And then I seen Pat Russo and he said, you know,
3 that he has to serve me paperwork and my badge and
4 ID and stuff. And that was the last I talked to
5 either one of them in that time frame, and I haven't
6 talked to the sheriff since.

7 Q Since the time you were arrested for that incident?

8 A Absolutely. Yes.

9 Q Okay. We'll come back to that incident.

10 (Plaintiff's Exhibit 91 was marked for
11 identification.)

12 BY MR. SORSBY:

13 Q I'm going to show you what's been marked as
14 Exhibit 91. These documents were produced pursuant
15 to discovery request by your attorney. Take a look
16 that the page and let me know when you've had a
17 chance to look at it.

18 A Yep.

19 Q Do you recognize this document?

20 A Yes.

21 MR. MARTIN: I'm going to object because
22 there's a cover page that's not being included.
23 It says page two of three. I'm just thinking
24 it would be better if we did the complete

1 document rather than just part of it.

2 MR. SORSBY: We'll just turn to the page.

3 That's fine. So what we'll do is take that

4 back.

5 MR. MARTIN: Want to just remark it,

6 another one that's complete?

7 MR. SORSBY: Off the record.

8 (Whereupon, a discussion was held off the

9 record.)

10 (Plaintiff's Exhibit 91 was marked for

11 identification.)

12 BY MR. SORSBY:

13 Q All right. Handing you what's been marked as

14 Exhibit 91. Do you recognize this document?

15 A Yes, I do.

16 Q All right. Can you tell us what this document is?

17 A This was a synopsis of what was going on at the time

18 that I had to confide in my chief, Ruth Vibert. I

19 went to the sheriff and told him that she had

20 disclosed some personal information to John Gorman,

21 and she denied it, which I didn't believe her. So I

22 went to the sheriff and told him and he said go put

23 it on paper. So basically what I tried to do was

24 kind of bring him up to speed because I didn't

1 disclose my personal business with the sheriff like
2 this.

3 Q I don't mean to interrupt you, but I just think you
4 should look at the document again before you
5 identify it as you did. Why don't you read that
6 second page there.

7 A What do you want me to read?

8 Q Read it to yourself.

9 (Witness examines document.)

10 Q There's another page behind it as well. I just
11 wanted to give you the opportunity to read it. Do
12 you recognize this document?

13 A Yeah. This is one I handed in.

14 Q All right. And what is this -- let's start at the
15 top. First page I'm talking about now, still on the
16 same exhibit, first page. What does it say the date
17 of the incident is?

18 A End of September to present.

19 Q Okay. And let's turn to the first page. Do you see
20 the first paragraph there, first line?

21 A Yes.

22 Q What does it say?

23 A "On one day in late September."

24 Q All right. Then second paragraph do you see a date

1 there, first line?

2 A On October 1st.

3 Q Okay. Let's just go to the last page.

4 A Okay.

5 Q What is the date at the top of that?

6 A 12/20/12.

7 Q Do you recognize your signature at the bottom of
8 this?

9 A Yes, I do.

10 Q All right. And the last incident was 12/20/12.
11 When did you write this document?

12 A Good question.

13 Q Having looked at it and seen the last incident date,
14 do you believe it was after that date?

15 A It had to be after the date.

16 Q All right. What do you understand this to be? Can
17 you tell us what this document is having had a
18 chance to look at it again?

19 A What I believe this is is when I went to the sheriff
20 and told him basically what was going on with the
21 new jail and John Gorman here.

22 Q Okay. So you went to the sheriff and told him about
23 a situation with Mr. Gorman. What did he tell you?

24 A Put it on paper.

1 Q Okay. And this was the product of that?

2 A I believe so.

3 Q Did you give this to Sheriff Mahar?

4 A Yes, I did.

5 Q Did you also give this to Chief Vibert?

6 A No.

7 Q Why did you not go to Chief Vibert regarding these
8 issues?

9 A Because she disclosed my information. When this all
10 happened John had a key to my office. I called her
11 and asked her, I do not want him to have access to
12 my office anymore. There's a lot of confidential
13 paper and stuff and he don't need access to my
14 office. And she agreed. But however, she asked me
15 why and I had to disclose information on where we
16 were and what happened up to this point. So I did.
17 And I got a phone call the next day with Kim
18 bitching, asking me about why am I putting her
19 personal business in the jail. Why is the chief
20 talking about her and her business, which I was
21 shocked about because the only people that knew were
22 me and the chief. Well, she called John and to tell
23 him that he wasn't going to have access to my key,
24 and that's when she told him about what I disclosed

1 to him, and John relayed that to back Kim and that
2 caused a big problem for me.

3 Q Okay.

4 A So this just kept snowballing, kept going.

5 Q But John already knew about the affairs; isn't that
6 true? Why would he need to hear it from Ruth?

7 That's what I'm trying to understand.

8 A Whether or not -- I don't care that I knew it from
9 Ruth. He did already know. And you know what, he
10 already knew and that was that.

11 Q That's what I'm asking you.

12 A But Ruth is the one that I disclosed and had
13 confidence in as my chief, that she asked me in
14 confidence. That's what I was upset about. Why
15 would Ruth think it was necessary to tell him what I
16 confided in?

17 Q Okay.

18 A And then he made accusations that I was taking the
19 key job away and stuff, which was ridiculous.

20 Q But you did ask that the key be taken away; correct?

21 A I asked that the key to my office was taken away.
22 Not his job. The key only to my office, and that
23 was it.

24 Q Okay. And why would -- what was the concern? Why

1 would you want his key taken away?

2 A Because we weren't that close no more. The only
3 person that had the key were lieutenants. No
4 correction officer or sergeant ever had a key to my
5 office, except for me. I laid out confidential
6 information everywhere. If I can't trust that guy
7 to come in and tell me who in there as a correction
8 officer was saying stuff, then I couldn't trust him
9 in there to see -- excuse me. I couldn't trust him
10 in there to see confidentiality stuff that I had
11 laying around, officers being investigated, so on
12 and so forth.

13 Q Okay.

14 A I didn't want him having access to my office.

15 Q All right. So we're looking at the second page, and
16 do you see the second paragraph there?

17 A Yes.

18 Q It says, "On October 1st I was advised by Kim
19 Gorman, my girlfriend at the time, that her brothers
20 John and Mark Gorman gave her information pertaining
21 to what my fellow coworkers were accusing me of and
22 this led to a lot of problems and resulted in the
23 end of our relationship." Is this the incident you
24 were talking about with the key?

1 A Yes.

2 Q Eventually led to the key removal?

3 A Yes.

4 Q To your office?

5 A Yes.

6 Q All right. Now, it says, "Prior to this incident I
7 gave Sergeant Gorman authorization to access my
8 office by using the key in the watchman when
9 feasible." Didn't he have access to your office
10 anyway, even prior permission before that?

11 A Yeah, access to keys. But he had no authorization
12 to go walking in my office. Absolutely not.

13 Q But you had given him authorization up until that
14 point?

15 A I believe I did.

16 Q And then you revoked it because of the fear, the
17 concern?

18 A Absolutely.

19 Q Okay.

20 A We were done at that point. We were done. Our
21 whatever so-called relationship was over.

22 Q Right.

23 A Done.

24 Q As of October?

1 A Right.

2 Q All right.

3 MR. MARTIN: Just let him finish his
4 question before you answer because you're
5 talking over each other a little bit.

6 THE WITNESS: Sorry.

7 BY MR. SORSBY:

8 Q Now, on that key detail, do you know how the key
9 detail worked with John? Do you know how keys were
10 made and how they were assigned by John?

11 A No. I didn't have any part of that.

12 Q Okay. I kind of wanted to -- help me to understand
13 at what point you became upset with Ruth Vibert
14 regarding the October incident as you were
15 discussing?

16 A The day that I had to disclose my information to her
17 and she turned around and told him. Prior to that
18 we were going for breakfast, we were going for
19 lunch, she'd stop in the office. Everything was
20 fine.

21 Q Good relations up until that point?

22 A Absolutely good relationship.

23 Q All right. When did you disclose the confidential
24 information, if you will, to Ruth?

1 A I called her -- I don't remember the time, but I
2 called her after work. I talked to her on her phone
3 at work. I said look, it's getting bad with this
4 guy. I don't want him having access to my office.
5 That's it. And she asked me why and I told her why,
6 all of this stuff in a nutshell. And it all got
7 repeated to me the next day by Kim.

8 Q So that was after the first phone call you had with
9 Mr. Gorman at the jail? In other words, you called
10 Ruth Vibert and asked to remove that key --

11 A Yes.

12 Q -- after; right?

13 A Yes.

14 Q Just to be clear for the record, after the first
15 call to Mr. Gorman?

16 MR. MARTIN: Object to the form just on
17 that.

18 MR. SORSBY: Let me rephrase it,
19 counselor.

20 MR. MARTIN: The only thing I was worried
21 about was removed from the key detail.

22 MR. SORSBY: Sure. That's fine.

23 BY MR. SORSBY:

24 Q After the first time you called Mr. Gorman at the

1 jail it was then that you called Chief Vibert and
2 asked her to not allow that access to your office?

3 A Yes.

4 Q So what I'm trying to figure out is how is it that
5 you were concerned that Ruth told Mr. Gorman
6 confidential information if he already knew about
7 it?

8 A My problem wasn't with John again. That was just a
9 situation where Ruth let out confidential
10 information I confided in her. She asked me the
11 problem and then went and told the guy that's
12 accusing me of all this stuff.

13 Q But he already knew it though.

14 A I understand.

15 Q And allegedly him and his brother already told your
16 sister?

17 A I don't know if they did. They repeated my
18 conversation. Again, it wasn't about him.

19 Q But you said that Kim told you that they told you
20 already. Before you called him on the first phone
21 call at the jail you testified that Kim had already
22 told you that they had told her; right? That they
23 had told her about the affair. Go ahead.

24 A But what I'm saying again, is take John out of the

1 equation now. It's not a matter of him going back
2 to Kim. It's a matter of the initial Ruth telling
3 him everything that I said to her. All he did was
4 repeat what Ruth said, which I mean a chief should
5 not do that. That was my issue. It wasn't with
6 John Gorman. John already did what he did. It was
7 Ruth at that point. Up until that point me and Ruth
8 were fine.

9 Q Okay. Looking at Exhibit 91 can you tell us what,
10 if anything -- what, if any, allegations against
11 Ruth Vibert there are in this incident report?

12 (Witness examines document.)

13 A Yeah, no, I don't see it. That's why I thought
14 maybe there was another report.

15 Q Well, while we're on that, now you prepared a
16 typewritten complaint against Ruth, didn't you?

17 A Probably just like this. On an informational.

18 Q Did you type that on a word processor yourself?

19 A I think on a computer. My computer at work.

20 Q Was it a couple of pages?

21 A It was probably just like this. I could've sworn
22 this was it.

23 Q Now, when you say just like this, we're referring to
24 Exhibit 91?

1 A Yes, 91.

2 Q And you're saying it's just like this. In addition
3 to the pages you typed, are you saying that there
4 was an incident report affixed to the top of it, or
5 you don't know?

6 A I'm not sure.

7 Q In what ways is the document that you prepared
8 similar to Exhibit 91?

9 MR. MARTIN: Object to the form. You can
10 answer.

11 A If I prepared it, it would've been just like this.
12 This is how I did reports.

13 Q Okay. Now, did when you prepare that report that
14 we're talking about?

15 MR. MARTIN: Object to the form.

16 A It's actually right there on the bottom. It says
17 that I talked to Ruth in her office; right?

18 Q Let the record reflect I'm being handed the last
19 page of Exhibit 91.

20 Can you explain what you're talking about,
21 Mr. Patricelli?

22 A It was a conversation. I asked her how she knew I
23 ever talked to the chief. She replied, "Her brother
24 told her and told him this and stressed the

1 seriousness of this accusation. Kim then told me
2 John heard it from the chief. I then asked the
3 chief if I could speak to her about what I heard. I
4 outright asked the chief. Denied ever talking to
5 anyone about what we talked about and said the only
6 dialogue she had with Gorman and Dunham was deny his
7 access from my office. I then presented her with
8 what Kim said -- told me. I'm good. I can sleep.
9 I know I didn't do it." That was from the chief.
10 "I then told her I didn't believe her and how
11 betrayed and displeased I was with her and that I no
12 longer wanted to talk about anything other than work
13 related things from now on."

14 Q Okay. And is this -- so does this accurately
15 reflect your conversation?

16 A Yes. With Ruth.

17 Q Okay.

18 A And then I handed this into to the sheriff. That
19 was the basis. I'm not a great report writer.

20 Q But in addition to this there was another document
21 you typed up you testified earlier about, a
22 three-page document?

23 MR. MARTIN: Object to the form.

24 A No.

1 Q You typed another document in this matter regarding
2 specifically what happened with Ruth and her giving
3 out confidential information?

4 A I thought I did.

5 MR. MARTIN: Object to the form.

6 MR. SORSBY: What is the objection?

7 MR. MARTIN: His testimony was I could've
8 sworn this was it. That's a quote, actually.

9 Do you understand the question?

10 THE WITNESS: I don't recall doing another
11 one. But again, when I seen this in your
12 office, I didn't know exactly that this was the
13 one.

14 BY MR. SORSBY:

15 Q You testified earlier that you recall typing a
16 document in regards to her alleged breach of
17 confidentiality. Okay?

18 A Yes.

19 Q And then we started discussing this and I'm just
20 trying to determine what happened to that other
21 document.

22 MR. MARTIN: Object to the form. I
23 thought he said I could've sworn that this was
24 it in response to your next question.

1 MR. SORSBY: Well, I'm asking for
2 clarification.

3 A I do believe this was it after reading it and going
4 over it with you.

5 Q Okay. Now, is this a formal complaint to the
6 sheriff about Ruth Vibert?

7 MR. MARTIN: Object to the form.

8 MR. SORSBY: What's the objection,
9 counselor, so I know?

10 MR. MARTIN: What do you mean by formal
11 complaint? I don't know if he knows that.

12 BY MR. SORSBY:

13 Q Do you understand what a formal complaint is at the
14 sheriff's office?

15 A Yes.

16 Q What is it?

17 A It's a complaint.

18 Q So is this a formal complaint?

19 A This was just my complaint about her.

20 Q Okay. Let's go to the first page. What does it say
21 at the top?

22 A Informational.

23 Q Does it also say Incident Report?

24 A Yes.

1 Q So having read that, is this a formal complaint that
2 they use at the sheriff's department?

3 A I never put one in.

4 Q You never put a formal complaint in regarding the
5 breach of confidentiality with Ruth Vibert?

6 A No. I put this in.

7 MR. MARTIN: Pointing to 91.

8 MR. SORSBY: Let's go off the record for a
9 moment.

10 (Whereupon, a discussion was held off the
11 record.)

12 BY MR. SORSBY:

13 Q Back on the record.

14 So I just want to move on. Just turn over
15 to the second page so we're on the same page here.
16 Now, we covered the October incident that you put in
17 in this incident report. I want to talk about the
18 November 7th incident. Do you understand?

19 A Yes.

20 Q Do you see where I'm at on this exhibit?

21 A Yes.

22 Q All right. This is November 7th. It says, "B line
23 I was in the watch commander's office with Sergeants
24 Roy and Maselli. During this time Sergeant Maselli

1 told me he found several discrepancies with the
2 Transport gun log." What's the Transport gun log,
3 if you know?

4 A It's where Axillary transports people, sign out
5 weapons to go do transports.

6 Q All right. Now, it goes on to say, "Without hearing
7 any names of those responsible, I advised the
8 sergeant to bring it to the captain's attention."
9 Which captain would that have been?

10 A Smith.

11 Q "Sergeant Maselli then left enroute to the captain's
12 office and it was the last I heard about this until
13 a few weeks later." Is that true?

14 A Yes.

15 Q Okay. "It was brought to my attention that Sergeant
16 Gorman was mad and accusing me of pushing the
17 incident so he gets a writeup." Is that true?

18 A Yes.

19 Q Who brought that to your attention?

20 A I don't even recall.

21 Q Okay. Did Mr. Gorman bring that to your attention
22 or was it some other person?

23 A I don't think I've talked to him since the second
24 phone call, to be honest with you.

1 Q Okay.

2 A So I think somebody else might've brought it to my
3 attention.

4 Q You just don't recall who?

5 A I don't recall who. I didn't think much of it.

6 Q All right. "I inquired to where the information was
7 coming from and was advised Captain Smith told
8 Sergeant Gorman he's to get a writeup for not
9 signing a gun back in and he wouldn't give it to him
10 but I'm pushing the issue." Do you recall that? Is
11 that a true statement?

12 A That was the allegation.

13 Q Okay. "I immediately advised the chief and
14 requested that something be done because this wasn't
15 the first time, and an accusation like this is only
16 aggravating my personal issues." At that time can
17 you just elaborate what the personal issues were?

18 A Well, I'm dealing with the breakup. I'm trying to
19 keep my personal business out of the jail, which he
20 continued to put it in the jail and make accusations
21 like this against me.

22 Q All right.

23 MR. SORSBY: Off the record for a moment.

24 (There was a brief pause in the proceedings.)

1 BY MR. SORSBY:

2 Q Back on the record. I'm going to hand you what's
3 been marked as Exhibit 85.

4 (Witness examines document.)

5 Do you recognize this document?

6 A It's an incident report.

7 Q Can you tell by looking at the bottom who the
8 incident report was prepared by?

9 A Don Maselli.

10 Q You recognize his signature?

11 A Yeah.

12 Q Had you seen this document before today?

13 A Not that I recall.

14 Q You've had you a chance to look over his narrative.
15 Is there anything that stands out that you disagree
16 with?

17 MR. MARTIN: Object to the form of the
18 question.

19 (Witness examines document.)

20 A No.

21 Q Okay. Can you tell us in what way you were involved
22 in this writeup?

23 A Writeup?

24 Q Incident report.

1 A Incident report?

2 Q Yes.

3 A I don't even recall why I went in there, but I went
4 into the watch commander's office. Sergeant Roy was
5 sitting there and Donato Maselli. Danny was a watch
6 commander.

7 Q Okay.

8 A And had the book with the Transport log. Two weeks
9 prior to this day I believe he received a writeup
10 for not logging somebody in. Danny, being a 23-year
11 veteran, bitching and complaining like I told you.

12 Q He got written up you're saying?

13 A He got written up for not signing in a gun.

14 Q Okay.

15 A So of course he was in there bitching and
16 complaining about, you know, oh, look at, there's
17 blanks there. Look at these people. Why the hell
18 ain't this, ba, ba, ba. I said I don't deal with
19 that shit. Go right in there right now and go see
20 Captain Smith. If you want something done about it,
21 go do it. Just like that. Danny said I'm gonna.
22 Went into Captain Smith with the book and then I was
23 accused of pushing it because John happened to be
24 one of them, which at no time did I even see a

1 signature. I didn't review the book. I told him to
2 go in there and deal with it, being that Captain
3 Smith was the one who wrote him up.

4 Q Now, you understand what a provisional sergeant is?

5 A Yes, I do.

6 Q What does that mean?

7 A That means brought on as a sergeant, but you need to
8 pass the test to be reached, to be brought in as
9 permanent.

10 Q Were you a provisional sergeant at one point?

11 A A provisional officer.

12 Q Now, provisional sergeant, are they trained by a
13 trainer?

14 A All sergeants are.

15 Q Is there a training period?

16 A Probably was. It's again something I didn't do.

17 Q And do you know if in November 2012 when this
18 happened Mr. Gorman was a provisional sergeant?

19 A I don't know the date, but I know he was a
20 provisional sergeant.

21 Q Okay. Now, on this particular incident you told
22 Mr. Maselli, Dan Maselli, that if Captain Smith
23 wouldn't write up John for the driver's log -- not
24 the driver's log, the weapons log thing, that he

1 should come back and you would write him up; isn't
2 that true?

3 A No.

4 Q Never said that?

5 A No.

6 Q Okay. Did you say to Mr. Maselli that he should
7 come back and tell you how it went with Captain
8 Smith?

9 A No. I had no idea John was one of the names when he
10 went into Captain Smith.

11 Q Okay.

12 A It really didn't mean anything to me. I could care
13 less who didn't sign it. Danny was bitching. I
14 told him to go see Captain Smith. It just so
15 happened to be him and of course it looks like I was
16 the bad guy again.

17 Q Okay. I just want to see something real quick with
18 this and then we'll be done with it.

19 (There was a brief pause in the proceedings.)

20 MR. SORSBY: Okay. We can put that in
21 this pile here.

22 BY MR. SORSBY:

23 Q Now, I'm going back to the deposition you had in a
24 matter of Vibert versus Rensselaer, do you

1 understand?

2 A Yes.

3 Q All right. Now, Mr. Keach asked you a question. He
4 asked you, "Well, did you ever blame Ms. Vibert for
5 anything in your relationship with Kim Gorman?" And
6 your answer was, "Yes, I did." And the question
7 was, "What would that be?" And you gave a lengthy
8 answer, but the part that I want to focus on is at
9 the end, and I'll read it to you and I'll let you
10 look at it as well and we'll get it marked into the
11 record. It says:

12 "A So I wrote it down on paper from start A
13 to start B of, you know, what happened and I handed
14 it in to the sheriff as more or less a complaint so
15 she could be addressed or talked to or something,
16 because I didn't think it was right."

17 "Q Okay. And did the sheriff investigate
18 your complaint or he investigated your complaint,
19 didn't he?

20 "A I believe that people were interviewed."

21 All right. So this complaint that you
22 indicate that you wrote down, "starting from A to B
23 of, you know, what happened and I handed it to the
24 sheriff," is this -- do you know what became of this

1 complaint?

2 A I believe that's it right there.

3 MR. MARTIN: Exhibit 91?

4 THE WITNESS: 91.

5 BY MR. SORSBY:

6 Q Okay. Can you explain to us what access you had to
7 video cameras in the jail facility?

8 A Initially I had a unit in my office.

9 Q What's a unit?

10 A A monitor.

11 Q Would it be fair to say a bank of video cameras or a
12 bank of monitors?

13 A Well, yeah, and a computer screen and then stuff to
14 access the computer itself.

15 Q When were you provided with that access?

16 A I think when Ruth became chief. When Ruth came in.

17 Q Did she give you that access?

18 A I believe she did.

19 Q All right. Now, the cameras that you had access to
20 you indicated they were in your office; is that
21 true?

22 A Cameras?

23 Q You had access to cameras on your computer. Was
24 your computer in your office?

1 A Yes.

2 Q Okay. Did you have access to all the cameras in the
3 facility, the correctional facility?

4 A I believe so.

5 Q All right. And can you tell us why you had such
6 broad access to all of those cameras?

7 A It's what everybody had, the administrators. I did
8 it -- I had it. To be honest with you I didn't
9 really need it. It was given to me.

10 Q All right. Do you know if any of the other
11 sergeants had access to all the cameras in the
12 facility?

13 A Yes. Sergeant Dunham.

14 Q Had access to all the cameras?

15 A Had access.

16 Q Now, was that part of his job to have access to all
17 of those camera? What was Sergeant Dunham's job?

18 A I don't even know what his job was. Doing policy,
19 stuff like that. I don't know otherwise. I
20 couldn't tell you.

21 Q All right. But you believe he had access to all the
22 cameras?

23 A Oh, I know he did.

24 Q Okay. Other than Sergeant Dunham and yourself, who

1 else had access to all the cameras?

2 A Captain Smith, the sheriff, I believe the
3 undersheriff, Control room.

4 Q Okay.

5 A I don't know of anybody else. I'm not sure.

6 Q Now, there came a time that there were accusations
7 made that you would monitor where people were in the
8 jail facility, not including Mr. Gorman. There were
9 others. There were accusations that you monitored
10 other's activities; isn't that true?

11 A I'm not aware of.

12 Q You're not aware of any accusations that you were
13 monitoring the whereabouts of people in the jail?

14 A No.

15 Q Other than prisoners, of course?

16 A Right.

17 Q Now, did there come a time when your access to all
18 the cameras was taken away?

19 A I gave it back. I didn't want it. I put it on the
20 cart and pushed it out in the hall because nothing
21 was being done about a particular person.

22 Q Okay. Now, you took the cameras out yourself or did
23 somebody else come in and take them out?

24 A I took them out myself. I unplugged it and put it

1 on the cart and pushed it out into the hall.

2 Q When did that happen?

3 A I'm not even sure.

4 Q Okay. Was it in 2013, 2012? Can you give us a time
5 frame?

6 A I don't even know. I'm sorry.

7 Q Tell us if you can what spurred you removing all of
8 the video cameras -- well, the access to the video
9 cameras?

10 A Nothing was being done about Dave Higgit constantly
11 out there smoking out in front of the jail after I
12 wrote him up, and I got fed up with it. So I said
13 there's no need for this. Take it.

14 Q And so why would removing your access to the video
15 cameras alleviate that problem?

16 A Because that's what I was using to show that the guy
17 was doing this. But it didn't matter.

18 Q How were you using it to show that's what he was
19 doing?

20 A I was viewing it in my office. Any time I went out
21 there he'd go right back in, or if he knew I was
22 watching out the window he'd go right back. So you
23 could see him from the camera.

24 Q Okay. And this is a problem that the sheriff was

1 telling you about that he told you to fix?

2 A Yes. I wrote him up. And then after that it
3 would've been the next step or whatever and nobody
4 really seemed to care.

5 Q Were you also able to use the video camera system to
6 see people not shutting the gates that you referred
7 to earlier?

8 A If I went into the jail. If I viewed inside the
9 jail. I never bothered with inside the jail.

10 Q So how did you know those gates were left open?

11 A I walked into the jail.

12 Q And that's how you saw it?

13 A Yeah.

14 Q All right. What other issues did you see using the
15 video cameras in regards to what the staff were
16 doing or weren't doing?

17 A Nothing.

18 Q Just the one incident you're talking about?

19 A People driving through the West Gate, that was an
20 ongoing thing. They weren't stopping. They were
21 just sailing right through. We usually leave the
22 gate open on days that they're supposed to stop and
23 identify themselves. They'd fly right through.
24 Maintenance. Don't get me wrong, it's not like you

1 could go driving around the whole facility. There's
2 a double gate, but still in all they're supposed to
3 stop.

4 Q And they weren't?

5 A No, they weren't. That was another issue I had with
6 Maintenance.

7 Q Any other issues that you saw in terms of staff
8 members not doing their job with video cameras?

9 A No.

10 Q Now, was there -- at one point there was an
11 accusation that you were using the video cameras to
12 follow Lieutenant Karam; isn't that true?

13 A No, absolutely not.

14 Q You're not aware of that? I'm not saying whether
15 you believe it. But are you aware that people were
16 making those accusations?

17 A No, not at all.

18 Q Were you aware of an accusation that you were
19 monitoring the whereabouts of Undersheriff Russo
20 with a video camera?

21 A No.

22 Q That never came to your attention?

23 A No.

24 Q All right. Now, just a few more questions about the

1 cameras. With your access to your computer are you
2 able to change the position of the camera if
3 necessary?

4 A On certain cameras.

5 Q Okay. Do you recall what those cameras were?

6 A West gate.

7 Q West gate.

8 A East gate.

9 Q East gate. All right.

10 A I'm not sure what other ones. I used the West gate
11 one a lot for the gate that people just drove in.

12 Q So when you say that you --

13 A PTZ are the ones that you can. PTZ, pan/tilt/zoom
14 cameras you can.

15 Q Oh, that type of camera you were referencing?

16 A Yes.

17 Q All right. Now, in addition to the East gate, West
18 gate, you also were able to position those type of
19 cameras in the housing units as well?

20 A Yeah, but I never bothered with them.

21 Q You could. They were the type --

22 A The pan/tilt/zoom, absolutely.

23 Q Okay. So were all the cameras as far as you know in
24 the facility pan/tilt/zoom?

1 A No, I don't believe they are.

2 Q But in the housing unit they were?

3 A They have one that's supposed to go on the officer's
4 desk. It's supposed to stay that way.

5 Q All right. Now, I may have interrupted you. You
6 were talking about people running through the gate
7 and I believe you said you had to change the camera
8 to see that?

9 A Yes.

10 Q So you would position the camera to monitor the gate
11 more closely?

12 A Yeah, the pan/tilt/zoom. Zoom in on the license
13 plate, people going in, whoever.

14 Q All right. What did you do when you found somebody
15 offending that rule? Did you bring it to the
16 attention of the sheriff?

17 A I think I brought it to Captain Smith's attention to
18 talk to Maintenance. But whether it's that one, I
19 don't know. No idea.

20 Q So when the sheriff told you there were problems
21 with people smoking and destroying the gates --
22 well, specifically with smoking, you used the camera
23 to monitor those people's activities; isn't that
24 true?

1 A David Higgit, yeah.

2 Q And you were successful using that camera finding
3 what he did?

4 A Yeah. I wrote him up.

5 Q What became of that, do you know?

6 A Just go do a writeup, don't do it again.

7 Q Did you report back to the sheriff, because this was
8 an ongoing problem, as to the results of what you
9 did?

10 A I don't believe so.

11 Q What about the closing the gates, did you talk to
12 the sheriff again about that, what you did about
13 that?

14 A Yeah. That never changed.

15 Q That situation never changed?

16 A Still to this day it's like that.

17 Q All right. So you took the -- just real quick. You
18 took the computer system -- let me rephrase that.

19 Your ability to monitor the video cameras
20 was on your computer. How did you remove that
21 ability?

22 A I unplugged it, put the unit on a cart and pushed it
23 out the door.

24 Q It's a unit that plugs into your computer?

1 A No, no, no. It's its separate own entity. It's got
2 it's own monitor, it's own, I forgot even how it was
3 set up, keyboard maybe, CPU thing.

4 Q So it's a standalone unit?

5 A Yeah.

6 Q So you removed it. There came a time when it was
7 returned to you; isn't that true?

8 A No. Once I got rid of it, I got rid of it.

9 Q After the time that you removed it, there was never
10 a time in which you had that access again?

11 A No, sir.

12 Q All right. Now, isn't it true that -- well, there
13 came a time when Chief Vibert was terminated; isn't
14 that true?

15 A Yes.

16 Q And after she was terminated there came a time when
17 the cameras were returned, your ability to access
18 those cameras were returned to you; is that right?

19 A No, sir.

20 Q All right. Now, there came a time when you having
21 access to the cameras you were able to monitor the
22 whereabouts of Mr. Gorman; isn't that true?

23 A No, I never did.

24 Q After removing his access to your offices because

1 you didn't trust him, weren't you concerned about --
2 weren't you following him with the camera because
3 you were concerned about him?

4 A I wanted nothing to do with him whatsoever.

5 Q So you didn't monitor his whereabouts?

6 A Not at all.

7 Q Now, we played a video earlier about -- a DVD, a
8 recording of a conversation that you had with
9 Mr. Gorman when you called him at the correctional
10 facility. Did there come a time when you called a
11 sergeant -- you know who Sergeant Ranken is?

12 A Yes.

13 Q Did there come a time when you called Sergeant
14 Ranken and asked him why John was spending so much
15 time in Sergeant Dunham's office?

16 A No.

17 Q Did you have any discussion with Sergeant Ranken
18 about that?

19 A No.

20 Q Did you ever have any discussion with anybody in
21 regards to the amount of time that Mr. Gorman was
22 spending in Sergeant Ranken's office?

23 A No.

24 Q All right. Now, do you know where Sergeant Maselli

1 fell within the chain of command in regards to John?

2 A It was on equal plane with him.

3 Q All right. Do you know if Sergeant Maselli ever
4 monitored or checked Gorman's work?

5 A No.

6 Q All right. There came a time when you monitored
7 Mr. Gorman's work or checked up on his work; isn't
8 that true?

9 A No.

10 Q Now, did there ever come a time when you would walk
11 by Mr. Gorman in the hallway and you would smile at
12 him?

13 A No.

14 Q In any way taunt him?

15 A No.

16 Q Was there ever a scenario where you laughed at him?

17 A No.

18 Q All right. Now, as the master sergeant you had
19 access to all the video cameras. Did you also have
20 access to anywhere in the jail?

21 A Well, yeah, I could go anywhere in the jail.

22 Q And I'm not familiar with the jail setting, but a
23 typical correctional officer does he have access to
24 any part of the jail?

1 A No.

2 Q Why is that?

3 A Because there's certain offices he can't go in.
4 Don't have access.

5 Q He has to get permission first?

6 A Permission or there needs to be reason to go in
7 there.

8 Q And again just so as I understand the chain of
9 command. Other sergeants, are they assigned to a
10 particular location in the jail?

11 A Yes. There are posts; east side, west side, watch
12 commander.

13 Q And so would there be a reason for an east side
14 sergeant to be on the west side?

15 A Sure.

16 Q What would that reason be?

17 A Anything; bringing property, seeing an inmate,
18 following up on something that he dealt with because
19 there's a lot of overtime. He could've worked a
20 shift before or a shift after. Yeah. Relaying
21 something.

22 Q Would there be a reason for a sergeant on the east
23 side to be functioning in a supervisory capacity on
24 the west side?

1 A Depending on what he's doing.

2 Q Okay.

3 A They work together. It's not like everybody is --
4 we're all there together.

5 Q Okay. Now, again, you had testified earlier after
6 October you had nothing to do with John. Did there
7 come a time when you would appear where John was
8 working whether because you had to because of your
9 job or whatever the reason may be, did there come
10 times when you would appear in John's side of the
11 jail?

12 A I could've passed him in the hallway. Never on his
13 housing unit. He was a sergeant. So we had crossed
14 paths at some time.

15 Q All right.

16 A We were on roll call together in the morning,
17 lineup.

18 Q Now, you mentioned you may have passed him in the
19 hallway. Do you remember an incident in the hallway
20 with Mr. Gorman?

21 A Yes. He made an allegation that I was derogatory to
22 him.

23 Q Now, he made that allegation. But the fact that you
24 met in the hallway that was true; correct?

1 A I passed him in the hall. He was standing there.

2 Yes.

3 Q All right. He was standing there or walking by you?

4 A He was standing there. I walked by him.

5 Q Okay. Again, this would've been -- you understand
6 this to be in December; is that true?

7 A I don't know the date. I'm sorry.

8 Q It was after October when you had nothing to do with
9 Mr. Gorman.

10 A Somewhere in there.

11 Q It wasn't before October?

12 A No.

13 Q All right. Now, you said you walked by him, he was
14 standing there. What happened?

15 A I walked by, I greeted them both; good morning John,
16 good morning Chris. Officer Center was there. She
17 said good morning, he ignored me. Chris LaFountain.
18 Center was her maiden name.

19 Q So you said good morning?

20 A Said good morning, he ignored me. I said what's the
21 problem John, you can't even say hi. And I kept it
22 moving. That's all I said to him. Not another
23 word.

24 Q Now, were you upset with him when he didn't say hi?

1 A No. He's just carrying it on, you know what I mean?
2 He's continuing in his mind to think that he's been
3 harassed.

4 Q Well, I just want you to tell me what you mean by
5 carrying on. Like what did you get from him that --

6 A A dirty look and basically, you know, who are you to
7 say hi to me. And ignored.

8 Q Okay. Now, why would you want -- you said you
9 wanted nothing to do with him. Why would you want
10 him to say good morning to you or hi to you?

11 A Because I acknowledge him, one. And I'm not an
12 asshole to leave him out. So as I tried to say hi.

13 Q Okay.

14 A But instead he turned it into something that it
15 wasn't. That's the only reason why.

16 Q Okay. Can you tell us what your demeanor was when
17 you said that to him?

18 A I was happy. I was fine.

19 Q You weren't in any way -- you weren't grimacing in
20 any way?

21 A Not that I'm aware of. I was fine. I greeted them
22 both and figured I'd at least hear him say good
23 morning under his breath or something, or anything.
24 And I kept it moving like I said.

1 Q Okay. Now, I just want to back up a little bit.
2 The October incident, the first phone call you made
3 to John while he's at the jail, do you know if an
4 incident report was filed by Mr. Gorman in that
5 matter?

6 A I don't know.

7 Q Were you ever disciplined for that?

8 A No. I don't think I did anything wrong.

9 Q Tell us why.

10 A It was a conversation. Called him up and said hey,
11 thank you. I wasn't derogatory. A little ball bust
12 maybe, hey, offbeat, but no means did I threaten him
13 or anything like that. So why would I be
14 disciplined?

15 Q So in addition -- did there come a time when you
16 were in the cafeteria with Mr. Gorman and you looked
17 at him smilingly?

18 A To be honest with you I don't remember any time
19 being in there with him.

20 Q All right.

21 A I brought my lunch a lot. So if I was in there, it
22 was an occasion.

23 Q All right.

24 A Trust me when I tell you I was not trying to look

1 for this kid to have any more problems with all the
2 stuff he's already done, the accusations, the gun
3 thing.

4 Q But again, we're talking about November/December and
5 we fast forward to February. So you weren't looking
6 to get anything else going on, but February 15th
7 we're going to get to.

8 A Okay.

9 Q So you did do other things; right?

10 A We'll get to it.

11 Q Just to be fair; right?

12 A We'll get to it.

13 MR. SORSBY: Actually, just go off the
14 record for a minute.

15 (Whereupon, there was a discussion held of the
16 record.)

17 BY MR. SORSBY:

18 Q Just real quick. I'm going to hand you back Exhibit
19 85. This is again Sergeant Maselli's writeup,
20 incident report?

21 A It's an incident report. I don't know about a
22 writeup.

23 Q So that's what I wanted to ask you.

24 A It's what he found.

1 Q And you beat me to the punch. I was going to ask
2 you since you were a supervisor, this is not a
3 disciplinary writeup, isn't that true, it's just an
4 incident report?

5 A That's an incident report on something found.

6 Q All right. That's not the same as a disciplinary;
7 isn't that true?

8 A No. This is the basis of it. This could turn into
9 a writeup.

10 Q But it's not a disciplinary action?

11 A That's not disciplinary.

12 Q Do you know if in this matter a disciplinary action
13 was brought against Mr. Gorman?

14 A He claims he got a writeup. I'm thinking it's
15 probably not a writeup writeup. It's a "don't do it
16 again" type thing.

17 Q Would that be this?

18 A No.

19 Q It's something else?

20 A It's like on a formal page, but it's not -- there's
21 two things. Like a writeup and an oral written
22 warning; don't do it again. This really means
23 nothing. Just on paper to say if you did it again
24 they say, hey, we had this conversation on this day.

1 You just did it again. Just something that shows
2 record.

3 Q So there would be a written statement, an oral
4 warning and then a verbal warning?

5 A I think that's how it goes.

6 Q None of which -- this is not any of those?

7 A This is not any of those.

8 Q Okay. I'll put that back.

9 (An off-the-record discussion.)

10 MR. SORSBY: I think at this point we're
11 going to take a 45-minute lunch break.

12 (Whereupon, at 12:39 p.m. a lunch recess was
13 taking and proceedings resumed at 1:20 p.m.)

14 BY MR. SORSBY:

15 Q So back on the record. Mr. Patricelli, I just want
16 to get a little bit of background information of
17 some events that unfolded at the Rensselaer County
18 Sheriff's Office at the correctional facility.

19 Now, you're aware that there were -- there
20 was a number of lawsuits against the county jail
21 involving inmates having their jaws broken?

22 A Yes.

23 Q And that happened -- those lawsuits as far as you
24 know happened when you were there?

1 A I was employed there.

2 Q You weren't involved in those lawsuits?

3 A No.

4 Q Do you know if inmates actually, in point of fact,
5 had their jaws broken by corrections officers?

6 A They alleged it. I didn't follow them.

7 Q Do you know if it was ever proven?

8 A I think one guy got a settlement. Dan something,
9 maybe.

10 Q Okay. Was the person who got the settlement?

11 A He got a settlement.

12 Q Do you know if the corrections officers that were
13 accused of breaking those jaws, were they terminated
14 do you know?

15 A Not that I'm aware of, no. The one in question, no.
16 He's still there.

17 Q All right. So one of the persons you know that it
18 was alleged he broke an inmate's jaw, he still works
19 at the jail facility?

20 A Yes, he does.

21 Q What's his name?

22 A Tom Sawyer.

23 Q Now, would staff at the sheriff's office sometimes
24 use the term "I'll break your jaw" in joking?

1 A I don't know.

2 Q Have you ever heard that before, "I'll break their
3 jaw. I'll break your jaw?"

4 A Possibly. Not that it stuck out in my head.

5 Q Like banter maybe? Do you remember ever hearing it
6 in the form of banter?

7 MR. MARTIN: At the jail?

8 MR. SORSBY: At the jail, correct.

9 A No.

10 BY MR. SORSBY:

11 Q All right. I'm going to show you what's been marked
12 as Exhibit 54. Take a look at the first page there.

13 (Witness examines document.)

14 Do you see the date at the top?

15 A Yep.

16 Q What's the date on that?

17 A February 15th.

18 Q What year?

19 A '13.

20 Q Is there a name?

21 A What do you mean?

22 Q What's the name of the employee?

23 A John Gorman.

24 Q Have you seen this document before?

1 A Never.

2 Q You never seen this document before?

3 A No.

4 Q Can you tell us what's the title at the top, please?

5 A Rensselaer County Workplace Violence Prevention
6 Incident Report.

7 Q All right. Do you recall ever receiving an incident
8 report made by John Gorman regarding an incident on
9 February 15, 2013?

10 A No.

11 Q I just wanted to see if you've even this document
12 before.

13 Now, I just want to keep your attention on
14 February 15th, 2013, do you understand?

15 A Yes.

16 Q Do you recall if you were working that day?

17 A No, not really.

18 Q There came a time when you made a phone call to
19 Mr. Gorman on that date?

20 A Okay.

21 Q No, I'm asking, on February 15th, 2013 there came a
22 time at which you called Mr. Gorman; is that true?

23 A I don't know the date. If you say it is, then...

24 Q Well, I'm asking you.

1 A I don't recall the date.

2 Q Okay. I'll have a document in a little while that
3 will help refresh your recollection.

4 A All right.

5 Q You said earlier there was one phone call you made
6 to Mr. Gorman. There was a second phone call that
7 you made to Mr. Gorman. Do you know if that was in
8 February 2013?

9 A No. I made two.

10 Q Okay.

11 A So if we already talked about the first one, that
12 must be the second one.

13 Q All right. Did you call him at his house?

14 A Yes, I did.

15 Q And you got his home number from another employee.
16 You called the jail and got his phone number; isn't
17 that true?

18 A I believe I got it off the Call List.

19 Q Off the Call List?

20 A Yes. Employee Call List.

21 Q Isn't it also true that you called the jail itself
22 to get his phone number?

23 A Yes.

24 Q Who did you speak to to get that number?

1 A I don't even know. I don't remember.

2 Q Why did you get his phone number?

3 A Because I wanted to talk to him.

4 Q What did you want to talk to him about?

5 A Well, if I may, can I speak?

6 Q Yeah. I'm asking what did you want to talk to him
7 about?

8 A Two weeks prior or a week prior to this phone call I
9 was walking down the lobby and John Gorman was also
10 walking down the lobby with Dunham. At that time he
11 asked me if he could speak to me outside. I said
12 certainly. We walked outside and we discussed
13 what's been going on, and basically we shook hands
14 at the end of this conversation and I thought it was
15 over. I thought right then and there okay, we broke
16 the ice. That's the end of it. He's going to go
17 his way, I'm going to go my way.

18 Q And you said about what's going on. What did you
19 mean by that?

20 A Oh, these accusations and all this he's thinking I'm
21 after him. The craziness that's going on.

22 Q Sergeant Dunham is with you guys?

23 A No. We walked by ourselves. Initially he was
24 walking down the lobby with him.

1 Q Okay. You continued to walk with Mr. Gorman?

2 A I continued to walk with Mr. Gorman out front.

3 Absolutely. And we stopped out front and spoke.

4 Q So you were talking?

5 A We spoke about things happening, shook hands and
6 that was the end of it, which leads you up now to
7 this phone call.

8 Q Two weeks later?

9 A You could ask your question now.

10 Q So this happened two weeks before the phone call?

11 A Around there, yeah. Somewhere in there, yes.

12 Q All right.

13 A It was prior to.

14 Q It was prior to the phone call?

15 A Yes, it was.

16 Q Okay. So you got his home number and you called
17 him. And what did you talk to him about?

18 A Many things.

19 Q Many things?

20 A Many things. That this needs to stop. It was
21 personal. It needed to be left out of the jail. It
22 had nothing to do with work. I had no problems with
23 him whatsoever. I kept trying to reiterate that to
24 him and in his mind what his conversation was is,

1 yeah, you're doing this, I'm going that, I'm going
2 this. Me, being me, I'm doing all of this stuff to
3 him. In which I said no and told him that nothing
4 happened to him, nothing happened to him. I asked
5 for one thing to be done, and that was the key to be
6 taken out of his right to use my office, and that
7 was it.

8 Q Okay.

9 A And he said some bad stuff my way about my kid, my
10 raising, what I did to his sister and whatever, and
11 we kept going back and forth, back and forth and I
12 made the statement that "if you think that if I have
13 the problem you think I have with you, I would've
14 already broken your jaw." My exact words on
15 everything I love in life, I would stand up and say
16 that's exactly what I said to him. And I reiterated
17 it him because he said are you threatening me. I
18 said I'm not threatening you. And I said it again,
19 "if you think that I have the problem that you think
20 I have with you, I would've already broken your
21 jaw." Meaning that initially when it all started,
22 if I had a problem with this guy I would've already
23 said something. But I didn't. It was ridiculous to
24 think that -- the claims that he made that I said I

1 was going to break his jaw.

2 Q All right.

3 A And we talked for another 15 minutes or so, we left
4 the conversation at that, and then the next thing I
5 got a trooper calling me saying he put in a
6 complaint that I threatened him.

7 Q So I just want to double back on what you just said.
8 You said that if he had the problem with you that he
9 thinks he has, you would've already broken his jaw?

10 A Yeah.

11 Q What problem?

12 A All these problems, all this vindictive stuff he's
13 saying I'm doing to him. The accusations that he
14 made up until this point.

15 Q So what I want to understand, if he had those
16 problems with you -- if you had those problems with
17 him, if you really had a problem with him, you
18 would've already broken his jaw?

19 A No. If there was a problem initially -- any time of
20 this whole thing, something would've already
21 happened.

22 Q And that something would've been you would've broken
23 his jaw; right?

24 A No. He was not listening. Nothing would sink into

1 him --

2 Q Okay.

3 A -- to show him that I don't have a problem. So
4 basically rather wrong words or however maybe I said
5 it the wrong way, he interpreted it the wrong way at
6 no time did I say I would break his jaw or even want
7 to break his jaw. It come out as if I have the
8 problem that you think I have with you, like enough
9 is enough. Basically stop.

10 Q Right. Do you think that that was -- now you're
11 still the master sergeant at that time; isn't that
12 true?

13 A Yes.

14 Q And as a supervisor is that an appropriate comment
15 to say to one of your insubordinates or another
16 staff member?

17 A It was personal and he kept it personal, and it
18 needed to be outside of the jail personal. That's
19 why I called him and I didn't address him at work.
20 That's why I called him at home thinking I could go
21 man to man with him and tell him to stop the shit
22 and leave it out of work. But he just wouldn't do
23 it.

24 Q And again, I just want to clarify: All the stuff

1 he's bringing up. You mean the complaints that he's
2 making; right?

3 A Yeah, the accusations because he gets the write-up.
4 I took all his keys away.

5 Q All of these complaints he's making basically,
6 right, that we've been talking about today?

7 A Yeah.

8 Q All right.

9 A Had nothing to do with the fact that he told his
10 sister. I could care less. He already did it.
11 It's over, it's done. It was done. That was not
12 even an issue. All this other stuff that never took
13 place that he in his mind for whatever reason
14 thought that I was doing to him that he's so wrong
15 about.

16 Q Okay.

17 A Sorry for speaking so fast. No reason why, sir.
18 None whatsoever. If I said it, I'd tell you I said
19 that. Without a doubt I would tell you. I would've
20 told the trooper who I guess wrote down that, she
21 interpreted it a different way too.

22 Q Right. Have you ever broken anybody's jaw before?

23 A No.

24 Q Have you ever engaged in acts of violence before?

1 A I was in fights when I was a kid. Sure. I can't
2 remember my last fight.

3 Q Did you ever engage in an act of violence with an
4 inmate?

5 A Restrained an inmate, sure. I mean if that's what
6 you want to consider an act of violence. Restrained
7 a lot of inmates.

8 Q Were you ever charged with excessive force against
9 an inmate?

10 A No, never. I don't do that stuff. And that's 25
11 years of working there.

12 Q Now, you said you had fights when you were a kid.
13 Teenager I suppose?

14 A Yeah.

15 Q Was there also a scenario -- well, strike that.

16 Was there also -- there was an incident
17 where you got into a fight with somebody because
18 they took your parking space outside of your house;
19 isn't that true?

20 A It was a neighbor. It was an argument. It wasn't a
21 fight.

22 Q It was a neighbor?

23 A Yeah.

24 Q They took your parking spot?

1 A It was a little more than that, but yeah, we got in
2 an argument in the morning.

3 Q It was more than that? What do you mean? It was
4 more than just taking a parking spot?

5 A Yeah. It was an argument.

6 Q Did you have physical contact with the neighbor?

7 A None.

8 Q Did they have physical contact with you?

9 A He got out of his car and came up to me.

10 Q Words were exchanged?

11 A Yeah.

12 Q Heated words?

13 A Oh, yeah.

14 MR. SORSBY: Off the record a minute.

15 (Whereupon, a discussion was held off the
16 record.)

17 BY MR. SORSBY:

18 Q Back on the record. Going to show you Exhibit 86.
19 Take a quick look at that.

20 (Witness examines document.)

21 You had a chance to read that?

22 A Yes, sir.

23 Q And have you read that -- well, had you seen this
24 e-mail before?

1 A Never.

2 Q Okay. I'd asked you earlier as to who you contacted
3 at the jail to get his number, Mr. Gorman's number,
4 and you didn't recall. Having read that do you
5 believe it to be -- hold on one second. I'm just
6 going to read this. It says, "At 1900 hours tonight
7 Sergeant Ed Weber came to my office. He told me he
8 had heard there was a problem between Master
9 Sergeant Patricelli and Sergeant John Gorman, that
10 it resulted in an arrest. He told me that he was
11 concerned because about a week ago Sergeant
12 Patricelli had called looking for Sergeant Gorman's
13 phone number and he had given it to him." Having
14 heard that does that refresh your recollection as to
15 who you talked to at that time when you called for
16 the number?

17 A No.

18 Q You still don't remember?

19 A No. I did it.

20 Q Okay.

21 A I don't know who I talked to though.

22 Q Okay. That's fine.

23 Now -- let's go off the record a minute.

24 (Whereupon, a discussion was held off the

1 record.)

2 BY MR. SORSBY:

3 Q Back on the record. We're looking back at Exhibit
4 54. Okay?

5 A Yes.

6 Q Now, I just want to -- you see what appears to be a
7 narrative affixed to the back of this?

8 A Yes.

9 Q And I have another copy of that, Mr. Patricelli, if
10 you need to look at that because this copy is a
11 little worn. Okay?

12 A Yes.

13 Q And do you see who signed it at the back?

14 A Yes.

15 Q Can you tell us who that is?

16 A John Gorman.

17 Q All right. Now, if you can just take 30 seconds to
18 look at that and make sure you've never seen this
19 before today. Look at it and see if you've seen it
20 before, if you recall seeing this document before.

21 (Witness examines document.)

22 And again, I've given you a clean copy if
23 it would help you.

24 A No.

1 MR. SORSBY: Just to make life easier,
2 we're going to go ahead and mark it and make
3 another exhibit. We're going to introduce the
4 cleaner version just so everyone will know what
5 we're talking about.

6 (Plaintiff's Exhibit 92 was marked for
7 identification.)

8 BY MR. SORSBY:

9 Q I'm going to show you what's now been marked as
10 Exhibit 92. And again, it's our position that
11 Exhibit 92 is the second and third page of
12 Exhibit 54. And we've today offered it because it's
13 a clearer version.

14 Now, we've discussed the fact that you
15 gave a deposition in the matter of Vibert versus
16 Rensselaer County. And do you recall talking about
17 an incident report filed by John Gorman dated
18 February 15th at that deposition?

19 A We did so much, I couldn't tell you.

20 Q And sometimes reading things may refresh your
21 recollection, so I'm going to read from the
22 transcript of that case, Vibert versus Rensselaer
23 County. This is from Mr. Keach.

24 MR. MARTIN: What page and line?

1 Q This is 143, line eight and nine. Starting at line
2 eight. Patricelli 1, is going to be Mr. Gorman's
3 written statement about what occurred between him
4 and Mr. Patricelli on February 15, 2013. Now, do
5 you see at the bottom of Exhibit 92 it says
6 Patricelli 1?

7 A Yep.

8 Q And the document above referred to is marked as
9 Patricelli Exhibit 1 for identification. "Here you
10 go sir. Yes, let the record reflect that I've shown
11 you this typewritten statement that Mr. Gorman
12 prepared regarding his interaction with you on the
13 telephone." Having read it to you and looking back
14 now at this exhibit where it says Patricelli 1 and
15 the date, does that refresh your recollection?

16 A I guess if it says it there, I did it. I just don't
17 remember.

18 Q Okay.

19 A I don't know. A lot has happened. A lot has
20 happened.

21 Q Okay. I'm going to read from Plaintiff's
22 Exhibit 92, which we just have been going over. It
23 says on, "February 15, 2013 at 1756 hours, I
24 received a phone call at my home from 858-2967."

1 Now, that's your phone number; isn't it?

2 A That's my work cell phone number.

3 Q So you called him on your work-issued cell phone
4 number from a number that you got for the jail;
5 correct?

6 A From his phone number from the jail, correct.

7 Q "The caller identified himself to my wife as Anthony
8 Patricelli." So you spoke to Mr. Gorman's wife
9 first?

10 A I think she answered the phone.

11 Q Okay. "Upon receiving the phone call from my wife,
12 I asked him for the reason for the call. Patricelli
13 stated "I heard you've been talking shit down at the
14 jail."

15 A It's continuing, yes.

16 Q "I asked him about what he was talking about. He
17 then said "you better keep your mouth shut."

18 A No. No.

19 Q Did you tell him to keep quiet?

20 A No. I don't remember my exact words.

21 Q Well, you just testified about talking shit at the
22 jail.

23 A Yeah.

24 Q You did say that?

1 A Yes.

2 Q Okay. And did you follow-up in regards to telling
3 him not to keep talking shit?

4 A Well, it needs to stop. It needs to stop. It's
5 personal.

6 Q You told him that?

7 A Yes.

8 Q Okay.

9 A Don't belong in a jail. Absolutely.

10 Q "He then said 'you better keep your mouth shut' and
11 that a "neutral party" had told him that I had been
12 talking about him at work."

13 A I don't know what that means.

14 Q You didn't use the word "neutral party"?

15 A No.

16 Q "I said that there are no neutral parties at the
17 jail and the only thing I said about him was that he
18 was my only real enough problem at work. He then
19 said, "If I had a big enough problem with you, I'd
20 come over there and break your jaw."

21 A No.

22 Q Is that the way you said it?

23 A No. I said it the way I told you. And even that
24 don't say I'm going to his house to break his jaw.

1 Q I understand. I'm going through the exhibit and I'm
2 giving you a chance to --

3 A I understand. I'm sorry.

4 Q "I asked if he was threatening me. He replied,
5 "listen very carefully to what I said." Did you use
6 those words?

7 A Something like that, as I said. And reiterated what
8 I said.

9 Q "If I had a big enough problem with you, I'd come
10 over there and break your jaw." Now, did you say
11 something like that, maybe what you testified
12 earlier the way you said --

13 A I said it the way I said it, the way I told you.

14 Q All right. "I told him that I didn't understand why
15 he was threatening me and looking for revenge."
16 Now, you testified earlier that he had mentioned
17 something about threatening and then you said
18 something in response. Did he say something that
19 you were, you know, you're threatening me?

20 A You lost me. I don't know what you're talking
21 about.

22 Q Okay. Let me read it again.

23 A No, no. I don't know what you're talking about I
24 said earlier.

1 Q All right. "I asked him if he was threatening me.
2 He replied, "listen very carefully." Did he ask you
3 if you were threatening him?

4 A In a phone call, yeah. And I said it's not a
5 threat. And I reiterated what I said so he would
6 understand it's not a threat and this is what I'm
7 saying. Evidentially he got it wrong.

8 Q Okay. "He then said that I ruined his career." Do
9 you recall saying something like that?

10 A I ruined his career?

11 Q No. "He then said" that would be you. You said to
12 him "I then ruined his career."

13 A No.

14 Q Just to be clear I'm reading from Exhibit 92,
15 Mr. Gorman's incident report. So I'm reading what
16 he's saying, okay, unless I tell you otherwise.

17 A Okay.

18 Q Did he ask you as to whether or not you had Maselli
19 following him around the jail and getting him
20 written up?

21 A I think that was part of the conversation.

22 Q He asked you about that?

23 A Yeah. And I said no.

24 Q Okay. Did he say something to the effect that it

1 was interesting because your name was mentioned
2 eight times in the Informational?

3 A Yeah. Where I didn't really see anything, my name
4 eight times there, which I told him I didn't do
5 anything.

6 Q Okay. "He said that Maselli and Roy were in the
7 office and that Maselli was crying like a bitch as
8 usual."

9 A I said that. As I told you in the beginning, he --

10 Q Okay. "About my not signing the keys in" -- I'm
11 going to back up. "He said that Maselli and Roy
12 were in the office and that Maselli was crying like
13 a bitch as usual about my not signing the keys in."

14 A No. That's in his words. That's not correct.

15 Q Okay. But you did testify that you used the words
16 --

17 A Crying like a bitch, yes.

18 Q Referring to Maselli?

19 A Yeah.

20 Q What was he crying about?

21 A That other people did do the same thing he got
22 written up and there was blanks in the thing.

23 Q You're referring to the weapons log?

24 A The weapons log. And I told him to go see the

1 captain about it. Don't tell me about it.

2 Q All right. "He continued to state that it was
3 Patricelli's job to -- his job to make sure that Hal
4 does his job because he's weak and doesn't take care
5 of things." Did you say something to that effect?

6 A No.

7 Q All right. "He continued to state that this was --
8 strike that.

9 "When I said that he showed he didn't have
10 me written up, he again said no. I suggested that
11 he should go find the Informational. He said what
12 Informational?"

13 MR. MARTIN: Object to the form. You said
14 didn't and it actually says did. I don't know
15 if that changes the meaning. Can you just...

16 Q I'll read it again.

17 "He continued to state that it was his job
18 to make sure that Hal does his job because he's weak
19 and doesn't take care of things. When I said that,
20 that showed he did have me written up, he again said
21 no. I suggested that you should go find the
22 Informational."

23 A And I guess that's what you just showed me. That's
24 the first time I've seen it, so I don't know.

1 Q Okay. "He said what Informational? I told him the
2 one that Maselli wrote that I've already asked for
3 and no one could find." "He said you betrayed me.
4 If you were man enough you'd stand up and tell the
5 truth and stop being a pussy."

6 A I don't know if I -- I don't know.

7 Q Do you recall making that statement?

8 A No. I remember saying he betrayed me.

9 Q You recall saying that?

10 A Right. He should've just came in like a man and
11 told me who said it. It wouldn't have made a
12 difference anyway, so I don't begrudge him for that.
13 That's his sister. I understood that
14 wholeheartedly. The guy's got to look out for his
15 sister, and what he did, he did. But all of this
16 other nonsense...

17 Q When you say other nonsense, filing incident reports
18 and workplace violence complaints?

19 A Yeah. You'll find out in the end this is not
20 correct.

21 Q So that's what you're talking about, all the other
22 stuff?

23 A Yes.

24 Q Okay. I just want to make sure we're referencing

1 the right thing.

2 All right. So you did say you betrayed me
3 and you did say something about man enough; correct?
4 You just mentioned something about if he was a man.
5 Did you use that type of language?

6 A Yeah.

7 Q Did you use that -- did you say that?

8 A I couldn't have. Like I said, I don't recall this
9 whole -- there's stuff in there not even close.
10 So...

11 Q All right.

12 A Again, this conversation carried on for 20 minutes
13 back and forth.

14 Q I see that. "I asked what was I not telling the
15 truth about. He said you're the one who told your
16 sister I was cheating and who I was cheating with."
17 Is that true?

18 A Probably, yeah.

19 Q "I told him I didn't know who it was until my sister
20 told me and that it had nothing to do with his
21 sister finding out." Did he say that response to
22 you?

23 A Could've. Again, I wasn't taking any notes. Not to
24 be a wiseguy, but to be honest I thought we were

1 having a man-to-man conversation and at the end of
2 this, this was definitely going to be it.

3 Q "I said so this was why you tried to take my key
4 assignment away and tried to start a fight in the
5 West Hall that Chris LaFountain witnessed while she
6 sat at the West Hall post." Do you recall him
7 saying that you to?

8 A He probably did, but he's not correct.

9 Q I'm just asking if he made that type of accusation
10 to you?

11 A Yeah. That's what he thought.

12 Q "I told him that he was mad at the wrong person, as
13 I had nothing to do with his breakup." He said
14 something like that?

15 A Probably.

16 Q Okay. "Other than supporting my sister."

17 A Right.

18 Q You recall him saying something similar to that?

19 A Yes, he could've.

20 Q "He said," meaning you, "He said I said that, I did
21 that, I was upset. He continued with saying he
22 wants revenge, he wants me to pay."

23 A Absolutely not. No way.

24 Q No language to you wanting revenge or you wanted him

1 to pay?

2 A No, sir. No way.

3 Q "I said so you did try to take the keys and start a
4 fight. You went to the chief and told her to remove
5 me from the keys. He said I don't trust you, you
6 betrayed me."

7 Now, you indicated before that it seemed
8 that you didn't trust him anymore. So did you say
9 that, you didn't trust him, he betrayed you?

10 A Yeah.

11 Q Okay.

12 A After the allegation and whatever that was that --
13 then when it came down to where he wouldn't tell me
14 whoever, whatever, and yeah, he didn't need access
15 to my office. That was it. As far as taking his
16 keys, not even close. One key. Just the access to
17 my office.

18 Q Okay. Now, did you -- so in your conversation with
19 Ruth did you ask that he be removed from the key
20 detail all together?

21 A No, sir. One key.

22 Q Just the one key to your office?

23 A One key to my office. Nothing else. One key.

24 Q All right.

1 A And I told her why. That was my problem with Ruth.

2 Q "He continued with "I shouldn't be talking about
3 this because it's an ongoing investigation." Now,
4 when you spoke to Mr. Gorman it was an ongoing
5 investigation, all of the complaints that we're
6 talking about?

7 A I didn't know it was an ongoing investigation.

8 Q Okay. You don't recall saying that?

9 A What?

10 Q Do you recall saying I shouldn't be talking about
11 this. It's an ongoing investigation?

12 A I didn't know it was an investigation.

13 Q Okay. You were aware that complaints were made
14 though; correct?

15 A Oh, yeah.

16 Q By Mr. Gorman?

17 A Oh, yeah. I had to talk to Tom Hendry, I had to
18 talk to...

19 Q Now, you weren't aware of an investigation, but
20 isn't it true you were aware that Ruth was
21 investigating these complaints?

22 MR. GORMAN: No, no, no.

23 (Whereupon, a discussion was held off the
24 record.)

1 BY MR. SORSBY:

2 Q So where it says that he continued with "I shouldn't
3 be talking about this because it's an ongoing
4 investigation," was that the chief told you -- let
5 me redo this.

6 "He continued with 'I shouldn't be talking
7 about this because it's an ongoing investigation.
8 The chief told you everything I told her in
9 confidence." That ongoing investigation that
10 Mr. Gorman is mentioning, do you understand that
11 that was the investigation that Ruth Vibert -- that
12 was being launched against Ruth Vibert?

13 A From who?

14 Q From you.

15 A From me?

16 Q Yes.

17 A Oh, because of my paperwork got put in?

18 Q Correct.

19 A And that's what he said to me?

20 Q All right. No.

21 A Oh, I see. You're saying I said that to him?

22 Q No. Because there was an ongoing information of
23 Ruth for divulging confidential information.

24 A I don't even know where that was in that stage, if I

1 was passed in the paperwork. It was brought to
2 my attention that people were being interviewed
3 after the fact. So I don't remember when that fell
4 there as far as our phone call.

5 Q Okay.

6 A And I didn't disclose nothing in this phone call
7 about Ruth, other than her -- you know saying in
8 confidence with her, I probably -- it says I at
9 least said it in there. I don't know.

10 Q Now, this is February 15th. Before this you had
11 already gone to the sheriff, right, and you talked
12 to the sheriff about Ruth giving out confidential
13 information?

14 A I don't know. Can I look at my thing? I don't know
15 the date. Oh, there's not a date on it; right?

16 Q Right. Do you recall before having the
17 February 15th conversation with Mr. Gorman?

18 A Yeah, I think it -- it might've been.

19 MR. MARTIN: Don't guess.

20 A I'm not sure. Sorry. I don't know the dates. I'm
21 trying to think.

22 Q Let me just make it -- let me ask you this way,
23 Mr. Patricelli. Before February 15th when you spoke
24 to Mr. Gorman on the phone, did you have a

1 conversation with the sheriff regarding Ruth's
2 divulging of confidential information?

3 A Yes, it was beforehand.

4 Q Okay. You may not know the date, but it was
5 beforehand?

6 A Yeah, it was beforehand.

7 Q All right. So going back to this. Do you recall
8 telling Mr. Gorman that you can't talk about things
9 relating to Ruth because there was an ongoing
10 investigation?

11 A No.

12 Q Do you recall saying that the chief told you
13 everything I told her in confidence?

14 A Yeah.

15 Q You recall saying that to John?

16 A Yep, that's what I believe. Absolutely.

17 Q All right.

18 A That's based on a phone call via his sister the next
19 day, who was very upset that her information and our
20 information was being talked about in the jail with
21 the chief.

22 Q Conversation the day after this phone call?

23 A Well, thereafter. Thereafter the information come
24 out. Not that, do you know what I'm saying? When

1 Ruth disclosed the information on me, which was
2 prior to that.

3 Q Okay.

4 A All that was just leading up to this phone call to
5 say stop. Enough is enough.

6 Q Okay.

7 A It needs to end. And I thought we had had it licked
8 when we shook hands prior to this, but I guess that
9 didn't... can I add one more thing?

10 Q In regards --

11 MR. MARTIN: Yeah, go ahead.

12 A It struck me funny that all of a sudden I was a bad
13 guy and he's in fear of his life and what the
14 trooper said and threatened his family and all that.
15 Prior to this I used to bring his daughter home to
16 my house, let her stay there with me until he got
17 out of work. I've gone to his house, we've gone to
18 -- been around his mother, his family, Christmas,
19 Easter, Halloween we trick or treat. We went to New
20 York on occasions. And now all of a sudden I'm this
21 bad guy?

22 Q You mean prior to this, prior to threatening to
23 break his jaw?

24 A Prior to everything, yeah.

1 Q Prior to calling him at work and "thank your sister,
2 thank your brother, thank you"?

3 A Prior to everything. Just wanted to throw that out
4 there that, you know, all of a sudden just 360.

5 Q All of a sudden you're a man to be feared?

6 A Sorry. It was just on my mind.

7 Q Now, did there come a time -- we're back on this
8 exhibit in this conversation you had called him on
9 February 15. Did there come a time that you said
10 that you got your transition, you got your keys, you
11 think you got John Gorman, you got provisional
12 stripes. I got you that?

13 A Actually, I helped him. Absolutely I did.

14 Q Now, let's go into that a little bit. You got him
15 the key detail?

16 A I helped him get it. I spoke up for him.

17 Q To who?

18 A To the sheriff, to the administration, the captain.
19 When they were inquiring on who would be a good
20 person, I did it. I spoke up for him because I
21 thought, you know, we are family members or
22 whatever. I thought we were in a different place
23 that really we were.

24 Q This is before all this went down and after October?

1 A Sure, absolutely.

2 Q And what about the provisional stripes?

3 A Absolutely. I spoke up for him.

4 Q How did you help him?

5 A Same thing.

6 Q Who did you speak to?

7 A Anybody who would listen to me, trying to get him in
8 there.

9 Q Was anybody else trying to get him in there or just
10 you?

11 A I don't know if anybody -- I did. I know about me,
12 I tried. I couldn't tell you if anybody else was
13 trying to get him in there.

14 Q Did you talk to the sheriff about that?

15 A Yes, I did.

16 Q Who's the person responsible for appointing
17 provisional sergeant?

18 A I don't even know. I mean it could've been the
19 undersheriff, it could've been the sheriff.

20 Q It's not you?

21 A Oh, no. I don't have that power.

22 Q Okay. So the undersheriff or the sheriff as far as
23 you know?

24 A Ultimately. And they take information from anybody.

1 And as a supervisor I have all the right in the
2 world to say if he was a bad guy, this is why I
3 think he shouldn't be in there, or if he was a good
4 guy, hey you might want to --

5 Q A recommendation?

6 A There you go. Thank you. And everything that he
7 was afforded down there, people handed both me and
8 him because he got stuff at kind of an accelerated
9 rate.

10 Q So now after all of this stuff is going down, like
11 you said all this stuff, the accusations and
12 everything, you're on the phone with him and you've
13 given him all these things; right?

14 A Yeah.

15 Q And he's betrayed you; right? You feel that sense
16 of betrayal; is that correct?

17 A Yes.

18 Q And so after all of that didn't you say to him or
19 did you say to him, I can take those things away?

20 A Absolutely not, because I couldn't. I don't have
21 the power to take nothing away from him.

22 Q You don't have the power to call Chief Vibert and
23 ask that he be taken off the key detail?

24 A Yeah. And for what and why she'd say. It don't

1 work that way. No. And I wouldn't. I didn't. I
2 did not have the problem that he thinks I have with
3 him at all. He was getting gassed up by somebody.
4 At the end of this all my one wish is just to find
5 out how come this all transpired and how it
6 transpired. Where and -- who stirred all this and
7 kept it going to tell him that this was all
8 happening. Because a lot of it is hearsay. I'm
9 telling you right now there's other things that
10 happened.

11 Q What's hearsay? The affairs?

12 A I told you I admitted to that. I'm not a liar.

13 Q No. I just want to make sure I understand what
14 you're talking about.

15 A That I tried -- key control. I tried to write him
16 up.

17 Q So you want to know who was stirring it up to
18 agitate Mr. Gorman?

19 A Something must've happened along those lines for him
20 to act the way he did and do all this. That's all.

21 Q Okay.

22 A But no, I did -- no time did I ask for anything to
23 be taken from him.

24 Q Now, not did you at that time or before February 15

1 did you have a consideration with Sheriff Mahar
2 regarding these incidents?

3 A Other than that paper, bring him up to speed what
4 was happening.

5 Q Okay. What paper are we talking about?

6 A Exhibit 91.

7 MR. MARTIN: Exhibit 91.

8 A You mean the incident report or the answer to the
9 incident report?

10 MR. MARTIN: The answer to the incident
11 report.

12 A Mine, yeah. And to add, he lost nothing. Up until
13 that point he lost nothing at all. He maintained
14 everything that he ever got. Nobody took nothing
15 from him. The only thing he lost was his
16 provisional stripes, and that was his doing for not
17 making it high enough on the test.

18 Q We're going to get to that.

19 A Okay.

20 (There was a brief pause in the proceedings.)

21 BY MR. SORSBY:

22 Q All right. Now, Mr. Patricelli, you mentioned that
23 you made a recommendation for Mr. Gorman to be a
24 provisional sergeant; correct?

1 A Correct.

2 Q And you made that recommendation to the sheriff;
3 isn't that true?

4 A Him and along with others, sure. Captains,
5 lieutenants.

6 Q Now, you already testified that you had a good
7 relationship with Sheriff Mahar. Isn't it true that
8 you could've have recommended that Mr. Gorman lose
9 his provisional sergeant position?

10 A No.

11 Q Why not?

12 A Because I wouldn't have.

13 Q Why not?

14 A Because I have integrity.

15 Q Okay. Now, isn't it true that you were fairly upset
16 with Mr. Gorman's betrayal?

17 A No. I was upset at the fact that he was bringing my
18 personal business in the jail and I needed it to
19 stop. That's why I called him. That's the only
20 reason why.

21 Q All right. Also says, "You think Mr. Gorman became
22 a deputy by himself? I got you and your brother
23 everything." What does it mean by his brother?

24 A I helped you. It's not got you. I helped you.

1 Q Okay.

2 A And I helped Mark too. And Mark again, made a road
3 stop and made mention of my name and what a bad
4 person I am to troopers that I happen to know prior
5 to this.

6 Q Did you ever call Mark at home?

7 A No.

8 Q Did you ever threaten to break his jaw?

9 A No, I didn't talk to him. He didn't bring it into
10 work. It was something I had to deal with every
11 day, a different staff member saying that he was
12 making accusations and saying things about me and
13 saying he committed career suicide and his career is
14 over because of me, which is all nonsense. No, he
15 didn't, so there was no reason.

16 Q Now, you're a supervisor. Tell me what the problem
17 is with a corrections officer filing incident
18 reports following protocol if they have a problem
19 with what's going on at the jail?

20 A Nothing. I mean that's their right to do it.

21 Q So why were you upset?

22 A Because it's false, that's why. It's false. It's
23 not correct. It's a lie.

24 Q And you submitted a response to this incident

1 report; didn't you?

2 A Yes, I did.

3 Q Okay.

4 A To be heard. Enough is enough.

5 Q You addressed it; correct?

6 A Well, I wanted it addressed. I wanted it brought
7 up.

8 Q And that's what Exhibit 91 is? It's your addressing
9 these allegations that you heard; isn't that true?

10 A That's my -- yes.

11 Q I just want to show you something else real quick.
12 I'm going to show you what's been previously marked
13 as Exhibit 57. Take a look at that.

14 (Witness reviews document.)

15 Do you recognize this document? Have you
16 seen this before?

17 A Not that I recall. We talked about it.

18 Q All right. Make this easier. You've already looked
19 at Exhibit 57. Keep that there. Do you see a date
20 on Exhibit 57?

21 A Hm-hum.

22 Q Just read that date.

23 A 10/28 of '15.

24 Q Okay. The top there; Date of Incident.

1 A Oh, October 8th, 2012.

2 Q I'm going to show you Exhibit 56. Do you see the
3 location of the incident? Can you read that to us?

4 A Key access.

5 Q Do you see the date on that?

6 A October 9th, 2012.

7 Q All right. I'm going to show you another. This is
8 Exhibit 58. Do you see the type of incident at the
9 top -- the location, excuse me, of the incident?

10 A Transports.

11 Q And what's the date?

12 A November 5th, 2012.

13 Q Okay. And then finally, you can take a look at that
14 if you want.

15 (Witness examines document.)

16 Show you real quick 55. Do you see the
17 date at the top of the incident there, it says what?

18 A On or about the 22nd of January.

19 Q Location incident?

20 A West hall.

21 Q Okay. Take a look at it.

22 A Okay.

23 Q Now, I'm showing you all of these because we've
24 discussed at length accusations that Mr. Gorman made

1 against you. And in Exhibit 91 it appears that you
2 put together a narrative where you respond to his
3 accusations. And I just want to see if your
4 response to these dates and events was in response
5 to his allegation, his Informationals here.

6 A No. This was my trying to bring him up to speed on
7 what happened to me. Nothing -- you know what I
8 mean, bring not that as a result. This all stems
9 from Ruth.

10 Q I understand that, but this is not all --

11 A That's not everything.

12 Q Right.

13 A There's a lot of these Informationals I had no idea
14 that he's even written against me.

15 Q Now, it's your position that you prepared this in
16 response to a request by the sheriff?

17 A In initially talking to him.

18 Q Okay. So how did you become -- I'm reading from the
19 second page, it says, "On October 1st was advised by
20 Kim Gorman that her brothers John and Mark, and Mark
21 Gorman gave her information pertaining to what my
22 fellow coworkers were accusing me of." Let me ask a
23 different question.

24 How did you know to put a response to

1 these particular dates? I mean you indicated that
2 there was some accusations that Gorman was making
3 about you. These appear to be in response to those
4 accusations. This is your response. Remember you
5 said that they weren't true. You were denying them.
6 This appears to be your response to those
7 accusations; is that true?

8 MR. MARTIN: Object to the form.

9 A I don't understand what you're trying to say here.

10 Q Okay. Were these responses to particular
11 accusations made by Mr. Gorman?

12 MR. MARTIN: Object to form.

13 A The one like the phone call I talked to Kim and she
14 told me that he said it. So I included that. The
15 one with Ruth she told me that she talked to him. I
16 put that in there.

17 Q Okay.

18 A This here, I took a leave of absence, because being
19 on the same team as his brother created some
20 problems, and that's something you should have on
21 the ESU team, so I'm the one that took the leave of
22 absence.

23 Q Okay.

24 A This is the walking down the lobby part that was

1 important because I thought we cleared it up, and
2 obviously we didn't. And then the phone call came
3 afterwards where he --

4 Q Yeah, and we've gone over this. All I want to know
5 is was this in some response to these documents?

6 A Not to these documents.

7 Q Okay. But they were in response to what you
8 understood to be his accusations?

9 A Yes, being an accusation. Sorry about that. I
10 wasn't understanding.

11 Q That's okay. Back on Exhibit 92, and this is
12 Mr. Gorman's narrative. Now I'm reading from the
13 last page of this exhibit. "Everything you have
14 down there is because of me and now you'll get
15 nothing."

16 A No.

17 Q Do you recall saying "everything you have down there
18 is because of me"?

19 A I helped you get everything. I helped him.

20 Q All right. You admit that. But the part about
21 you'll get nothing?

22 A No.

23 Q "All you do is put your head down and keep walking."

24 A I don't know what that means.

1 Q Do you recall saying that, "all you do is keep your
2 head down and keep walking?"

3 A No.

4 Q Okay. "You don't talk to me anymore. It's like I
5 disappeared."

6 A No idea.

7 Q "I then asked him what could I do for him and he was
8 calling. He asked "do you know where your sister
9 is?"

10 A No.

11 Q You don't remember --

12 A I've talked to his sister past that. I didn't need
13 to ask him.

14 Q Well --

15 A I talk to her regularly on the phone.

16 Q In that phone call did Kim Gorman come up in
17 conversation?

18 A What phone call? This one?

19 Q Yeah, February 15th. Do you remember you called his
20 house?

21 A I don't even recall her coming up. Other than
22 mentioning, you know, reiterating that he had
23 said -- they had talked about my personal business
24 with Ruth and stuff. That's maybe when Kim's name

1 come up.

2 Q All right. And I just want to be clear on
3 something. Did there come a time in that phone call
4 at all where you asked about where Kim Gorman was?

5 A No.

6 Q Now, I think you testified earlier that you know who
7 a Peter Colantonio is?

8 A Yes, I do.

9 Q In that -- it's within this conversation when you're
10 talking with Mr. Gorman on February 15th, 2013,
11 that's when you bring up Peter; isn't that true?

12 A I don't even know if we talked about it.

13 Q Do you recall having a conversation?

14 A I don't recall talking about him.

15 Q To Mr. Gorman?

16 A No.

17 Q At any time?

18 A No.

19 Q You don't recall talking to Mr. Gorman about Peter's
20 past criminal charges?

21 A No.

22 Q Okay. I want to double back on something real
23 quick. Now, you had said that you met with the
24 sheriff outside of work. Had you ever gone to a

1 sheriff's fundraiser for Sheriff Mahar?

2 A Plenty of them.

3 Q And did you go to one after he got reelected?

4 A Can I be specific? I don't know.

5 Q Do you remember bringing -- do you remember going to
6 a fundraiser at a Panichi's Restaurant?

7 A Yep.

8 Q Where's Panichi's Restaurant?

9 A It's in Wynantskill.

10 Q Okay. At that fundraiser do you remember
11 bringing -- we were talking about Danielle Waite
12 before. Do you remember bring Danielle Waite -- or
13 excuse me, Judy Wait?

14 A Janelle Waite.

15 Q Janelle Waite, sorry. Do you remember bringing her
16 to that?

17 A Yep. She came.

18 Q She was your guest?

19 A Yeah.

20 Q And this was some time after October 1, 2012?

21 A I don't know.

22 Q All right. I'm going to hand you what's been
23 previously marked in this case as Exhibit 37. I
24 want you to take a quick look at it. And if you

1 haven't seen it before after looking at it, that's
2 fine. Just let me know. It might help you too if
3 you look at the top it should indicate who this
4 report was made by. It's been previously marked as
5 --

6 A It's probably Hock. So I mean let's not bullshit
7 each other. H-O-C-K. I've never seen it.

8 Q Okay. That's an answer, if you have never it
9 before.

10 A Okay.

11 Q So I'd actually -- I'm going to take it back from
12 you and turn it to the right page. All right?

13 A Sure.

14 Q I may not have asked you the question before the
15 right way, but did you have an opportunity to review
16 this document before you came here today with your
17 attorney?

18 A I don't really recall. They might've put it in
19 front of me, but to be honest with you I don't read
20 any of them.

21 Q All right. I'm going to turn to the second to the
22 last page of Trooper Hock's incident report. I just
23 want you to read out loud in this paragraph to us,
24 please.

1 A "I contacted Patricelli via his cell phone and he
2 advised me that he did have a conversation with
3 Gorman last night. He told him that if I had a big
4 enough problem with him, he could come over and
5 break his fucking jaw. I advised Patricelli to
6 cease any further contact with Gorman. He agreed
7 the same."

8 Q Okay.

9 A That's not true.

10 Q You're saying that Trooper Hock is lying?

11 A Absolutely. I'm saying she made a mistake. That's
12 absolutely untrue.

13 Q Which part of that statement is untrue? All of it?

14 A No. I had a conversation with her. I told her if I
15 had a big enough problem with him, and that's where
16 it's wrong. I wouldn't go over there and break his
17 fucking jaw. Never said that. Never said that.

18 Q Okay. It's what you said earlier, "If you had had a
19 problem --

20 A If I had a big enough --

21 (Communication boundaries overlapping.)

22 Q Go ahead and say what you were saying.

23 A I told her exactly what I told you. That if I had a
24 big enough problem with him, I would've already

1 broken his jaw.

2 Q Okay.

3 A She told me to cease immediately, which is true.

4 And told me she was putting it in the back of her
5 file that he only put in a written complaint.

6 Q So having read what she stated that you said, it's
7 your position that's not true?

8 A That's not true. That's not what I told her.

9 Q All right.

10 A They have taped lines.

11 Q I'm sorry?

12 A They have taped lines up there, don't they?

13 Q What do you mean taped lines?

14 A Troopers. They have taped lines. Like taped when
15 you talk to them it's taped. I'm not lying.

16 Q Did you know that she testified in this matter at a
17 deposition?

18 A Yeah. My attorney told me.

19 Q Do you know that she held to this statement and
20 didn't deny it and said it was true under oath?

21 A Okay.

22 Q All right. I'm telling you.

23 A I'm saying she's wrong. She's human.

24 Q You're saying she's lying; correct? I mean what she

1 said wasn't true?

2 A I'm saying she made a mistake on what she put down.
3 She misunderstood me. I'm telling you I didn't say
4 that.

5 Q Fair enough.

6 All right. So we're going back to
7 February 15th, 2013. You called Mr. Gorman at home,
8 call was terminated. What happened next?

9 A A couple days later I received a call from Trooper
10 Hock saying that -- asking me if I know a John
11 Gorman. I said sure. And she told me that he was
12 up to file a complaint against me and asked me my
13 side of the story, which I was more than willing to
14 give her because I knew it was nothing bad with what
15 I said. And she told me initially oh, that's
16 borderline aggregated harassment. And I begged to
17 differ with her because I never called him back
18 again, I never threatened him, I never did anything
19 other than have a conversation with him. Maybe use
20 of bad choice of words, could be misinterpreted, and
21 she said what I'm going to do is put this in the
22 back of a file. It's not going anywhere. And that
23 was that.

24 Q Okay. That was on that phone call?

1 A That was on the one phone call from her.

2 Q And that was the same phone call you gave your
3 version of the facts of what happened?

4 A Yes, I did.

5 Q Okay. How many days after the February 15th phone
6 call did that happen?

7 A I don't know. Within a week, maybe.

8 Q All right. What happened after that phone call?

9 A After the phone call I -- nothing. I didn't think
10 there was nothing of it. I'm like, you know,
11 whatever.

12 Q Were you arrested?

13 A No, not until another week later, or a few days
14 later.

15 Q Tell me about that.

16 A I get a phone call at my sister's house, it's
17 Trooper Hock again, I need to meet up with you. I
18 said for what. She said well, John changed his into
19 a complaint.

20 Q Okay.

21 A I'm thinking well, why would he do that. But he
22 did, he changed it into a complaint. She goes I
23 have to meet you and give you a summons. I said you
24 can meet me at my house in about a half hour. She

1 come down. My kid was there. I had to send him
2 upstairs, and she explained to me that he changed
3 his mind, wanted me prosecuted. And you know, asked
4 for my height, weight, all the particulars, and then
5 gave me a summons and on there I had to appear in
6 court.

7 Q Which court, do you know?

8 A Schaghticoke.

9 Q Do you recall what the appearance date was?

10 A No.

11 Q Was it a couple of weeks after she visited with you?

12 A It might've been.

13 Q All right. And did you appear in response to that
14 appearance summons?

15 A Yes, I did.

16 Q And were you represented?

17 A Yes.

18 Q Who were you represented by?

19 A Joe Ahearn, A-H-E-A-R-N.

20 Q Now, you were charged with a misdemeanor; isn't that
21 true?

22 A Yes, they charged with me a misdemeanor. And I knew
23 I was getting the railroad after that, because Ruth
24 got involved. And I'm thinking it's in retaliation

1 because of me addressing the sheriff about her and
2 because we had the falling out then. So yeah, I was
3 charged with a misdemeanor.

4 Q Okay.

5 A Not the violation like normal people.

6 Q All right. So this is in February. Chief Vibert is
7 still there at that time?

8 A Yes, she was.

9 Q And Chief Vibert got involved you said?

10 A Yeah, she got involved.

11 Q With the criminal prosecution?

12 A Initially getting me arrested, I think, with John.

13 Q How did she get you arrested?

14 A Well, assisting John.

15 Q In what way?

16 A I don't know. I know she had a hand in it though.

17 Q To be clear, in getting you arrested?

18 A Yeah. And persuading him or having him change his
19 mind. That's my belief.

20 Q What basis do you have to form that belief?

21 A I have my opinion.

22 Q Well, what do you base that on?

23 A I base it on the change overnight and all of a
24 sudden she's involved in it. And something she did

1 the next day, how she lied and said she didn't know
2 nothing about it, when she really did. It didn't
3 matter. It was what it was.

4 Q Now, what was the consequence at work for the filing
5 of this charge?

6 A None, until the outcome. There was no consequence.
7 Put an order of protection against me, which was a
8 modified one that we can work. And from that day I
9 never even went near the guy. I didn't even look at
10 him.

11 Q You received an order of protection?

12 A Yes.

13 Q From the Schaghticoke Town Court?

14 A Yes, I did.

15 Q And you gave that to Sheriff Mahar?

16 A Yes, I did. That's the first time he was aware on
17 my behalf that I was arrested for the phone call.

18 Q When you gave him the --

19 A When I gave him the order of protection.

20 Q Okay.

21 A Let him be aware of it, because he would've had to
22 make a decision.

23 Q As to?

24 A If I moved shifts, if whatever.

1 Q Because of the --

2 A Because of the order of protection.

3 Q Got you. So you appeared on this misdemeanor charge
4 of aggravated harassment, and what happened?

5 A Initially I went there. The ADA was there.

6 Basically right out of her mouth she said the People
7 were ready for trial. He'll either plea to the
8 charge as follows or prepare for trial, basically.

9 Q Okay. And did you go to trial on this?

10 A No. It got ACOD'd, but we had to have a judge
11 recused. It's very political.

12 Q Which judge was that?

13 A Arnold.

14 Q He had to recuse himself?

15 A One or the other. I can't remember. One or the
16 other.

17 Q One or the other? One of the two judges?

18 A Yeah. Arnold or somebody. I don't remember which
19 one I did first.

20 Q You said it was very political. What did you mean
21 by that?

22 A Oh, yeah. This was the time that Gary Gordon ran
23 for sheriff and wasn't successful, and a lot of bad
24 stuff came out and basically vowed to get back at

1 the sheriff, and it got really dirty. So I knew he
2 had a hand in it when, normally anybody off the
3 street, in my experience in 25 years in doing
4 transports myself, a guy with a criminal history as
5 long as this table would go into court, and for
6 something like this where we have no history, it's
7 basically one phone call, you're offered a plea to a
8 violation or a \$250 fine and get out the door,
9 basically. When they said ready for trial, there's
10 no way. I knew something was up.

11 Q So the deal was you'd get an adjournment in
12 contemplation of dismissal?

13 A At the end of it.

14 Q Six months?

15 A Yeah, it's been something like that.

16 Q No, no, how long did you have to be "good"?

17 A Oh, yeah, I think it was six months.

18 Q So as part of that though you had to plea to the
19 charge, didn't you?

20 A No.

21 Q There was no plea on your behalf?

22 A No, not that I'm aware of.

23 Q You remember signing a plea deal though, don't you?

24 A Maybe the ACOD if nothing happened or something like

1 that. But there's no charge.

2 Q Do you remember going in front of the judge?

3 A At the end of it all, yeah.

4 Q Okay. When you say the end of it all, are you
5 talking about after the six months?

6 A No, not at the end of it. I've never seen anybody
7 after the six months.

8 Q So you went up in front of the judge after a plea
9 bargain was reached?

10 A Yeah.

11 Q Okay.

12 A I think it had something to do with my other charge
13 for the computer. I don't know what the term they
14 did, to be honest with you.

15 Q You were also charged with something else before
16 this court?

17 A No. County Court.

18 Q Okay. So you recall as part of whatever plea
19 agreement that you agreed to, you recall appearing
20 before the judge and he asked you questions. Do you
21 recall him asking you questions?

22 A No, I don't honestly. In the beginning all up front
23 there was a million adjournments.

24 Q Okay. Now, you said that there was an order of

1 protection issued and you gave it to the sheriff.

2 When did you give it to the sheriff? Was it shortly
3 after the February 15th phone call?

4 A I got it when I got to the first court, when they
5 handed it to me in court.

6 Q Do you remember when that was?

7 A No. My first court date they gave me an order of
8 protection. That's when I came into the jail. I
9 don't know when that was.

10 Q It looks like all the Informationals, the
11 misdemeanor Informationals were dated in February.
12 Do you recall giving the order of protection to
13 Sheriff Mahar in February or March?

14 A Like I said, when I first was arraigned on the
15 charge they gave me the copy of it, which I brought
16 in and I gave it to him. So I don't know.

17 Q I want to show you what's been marked as Exhibit 41.
18 Do you recognize this document? Just take a second
19 to review it.

20 (Witness examines document.)

21 Do you recognize this document?

22 A Yes, I do.

23 Q And it appears that on -- if you look at the bottom
24 left hand it says Dated; right? What's that date?

1 A Dated on 4/8/13. Is that nine? "Shall remain in
2 effect." Yeah, you know what, that might be when it
3 was ordered. That's when it's going to remain in
4 effect, September.

5 Q That's your understanding looking at that?

6 A I'm thinking so. "And it's further ordered that
7 this order of protection shall remain in effect
8 till..." Yes.

9 Q And did you receive just one order of protection?

10 A No. He renewed it.

11 Q Okay.

12 A So I don't know when that was, but probably when
13 that was up. Because this went on for some time
14 with the courts.

15 Q Okay. So it may've been that you received an order
16 or protection before this one?

17 A Again, my first time I went to court. If you guys
18 can figure that out, that's when I got the first
19 one. But that's probably around the right time.
20 Because they're good for six months. So if you go
21 back six months, we're in the wrong month. So I'm
22 thinking that's correct.

23 Q And I'm trying to ascertain when you brought it to
24 the sheriff's attention --

1 A It would've been the next business day.

2 Q After your arrest?

3 A After my arrest, yeah.

4 Q So it would -- because you indicated that you gave
5 him the order of protection. That was the first
6 time he became aware of the arrest. And you just
7 testified it would've been the day after arrest.

8 A If it was on a work day. I don't know when
9 Schaghticoke court was. Maybe Thursday. So that
10 means it was a Friday. If that's on a Friday, then
11 it means I did it on Monday.

12 Q So based on this date you gave him a different order
13 of protection then? The sheriff that is.

14 A How's that?

15 Q Well, because you said that you would've told him
16 the day after being arrested.

17 A No. The day after going to court. The arrest
18 didn't do it. They can't order it. They can order
19 a temporary one, but they didn't. The court's the
20 one that issued them. I'm sorry if I confused you.

21 Q Okay.

22 A I was arrested, then I went to court. That court
23 day is when --

24 Q The day after the court date?

1 A The day after the court date, yeah.

2 Q All right. Now, we were talking a little bit about
3 that and you had mentioned an incident, some other
4 incident I think you mentioned about checking
5 warrants involving a Peter Colantonio.

6 A Yes.

7 Q Now, isn't it true that you had Officer Vega run a
8 background check on Peter Colantonio?

9 A No.

10 Q Maybe I used the wrong terminology. Isn't it true
11 then that you did a warrant search on Peter
12 Colantonio?

13 A I asked Officer Vega to do a warrant check search.

14 Q Okay. To see if, what? If there were any
15 outstanding warrants?

16 A Any outstanding warrants, yeah.

17 Q Now, Officer Vega what is her position at the jail?

18 A She was a classification officer.

19 Q What does she do?

20 A She classified inmates. I don't know her whole job.

21 Q I'm trying to figure out why you would approach her.
22 Did she have control --

23 A She had access to information from warrants.

24 Q Was she the only person that had this access?

1 A No. I could've called the radio room, I could've
2 called the highway patrol, I could've asked the Troy
3 guys.

4 Q So why did you go to her instead?

5 A I really didn't think honest to God I was doing
6 anything wrong. If I thought I was committing a
7 felony by doing that, I would've never asked.

8 Q Okay. Now, the system that she has access to, do
9 you know what the name of that system is? Is it
10 like a DCJ, is it like a criminal justice system?

11 A I don't know the terminology. It might be like
12 E-Justice, D-Justice or something like that.

13 Q Do you have access to that system?

14 A No.

15 Q Why?

16 A We only have one terminal. There's only so many
17 terminals allotted for a police agency. Highway
18 Patrol has one and Corrections has one.

19 Q So this isn't a web page on the internet you can go
20 to?

21 A No. She had to go to a school and everything.

22 Q A school to be able to have access to this?

23 A A school to know how -- what to do and how to do it
24 and what's right and what's wrong. Yes.

1 Q So my question is, you can't just go to the internet
2 and access that database that she can access?

3 A No.

4 Q Okay. And that's why you wouldn't be able to access
5 it by yourself?

6 A Correct.

7 Q And that system is only available to staff of the
8 sheriff's office; isn't that true?

9 A I don't know.

10 Q Again, just to further solidify--

11 A Multiple police agencies have them. All police
12 agencies has that system.

13 Q Is that system database particular -- is there a
14 particular system for the sheriff's department?

15 A Yes. We have two.

16 Q Okay.

17 A Highway Parole and Corrections.

18 Q All right.

19 A Radio room obviously has one.

20 Q And now, the Corrections database that Ms. Vega has
21 access to, that's the one that she had access to;
22 correct?

23 A Corrections.

24 Q She's a corrections officer; right?

1 A Yes.

2 Q And that Corrections database is different than the
3 one the Highway Parole has access to; isn't that
4 true?

5 A I found out now. Yes.

6 Q And because of that the only people that you would
7 find on that database would be persons incarcerated;
8 isn't that true?

9 A Correct.

10 Q So the only way to find a person in that database is
11 to plug in a person that's incarcerated; isn't that
12 also true?

13 A No. You could -- I mean I don't know how did she
14 it. I asked her if she could do just that name, and
15 she said yeah. Did it and gave me the information.
16 I don't know what she typed in or how she typed it
17 or anything. I gave her the name, she typed it in,
18 gave me the paperwork, I looked, said a warrant out
19 of Arkansas, said okay, shredded it and that was
20 that.

21 Q But isn't it true you're only supposed to access
22 that to determine -- or get background information
23 on persons incarcerated there?

24 A I know that now.

1 Q But you didn't know it then?

2 A No. She told me there would be no problem doing it.

3 Q Well, you didn't tell her that he was not a person
4 incarcerated; isn't that true?

5 A I didn't what?

6 Q You did not tell her --

7 A Yes, I did. I told her exactly who he was.

8 Q You told her that it was a person that Kim Gorman
9 was having a relationship with?

10 A I believe I did tell her that.

11 Q Okay.

12 A He was a resident of the place back in '94 for quite
13 a while.

14 Q Now, when you told her that he was in a relationship
15 with Kim Gorman, what did she say?

16 A Nothing much. Nothing.

17 Q Didn't phase her?

18 A That's why I wanted to know if he had a warrant. I
19 didn't want my kid with him. I don't care about the
20 kid. I didn't. I knew his whole family. I knew
21 that kid since he was this big.

22 Q Which kid?

23 A Colantonio.

24 Q All right.

1 A I knew Peter, I knew his brother Paul, I knew his
2 sister Barbara. We grew up all together. I knew
3 when he was in jail. I was his supervisor on his
4 side of the jail when he was in. I didn't need to
5 know no file 15 stuff. I didn't need to know his
6 criminal history. For what? All I wanted to know
7 if my kid was going to be in the same car with
8 somebody that was a bad guy that wanted -- and I
9 know that kid to be a burglar, because that's what
10 he was called, the Hillside Burglar, on the side of
11 my house. No other reason did I care about that
12 kid. And obviously for the welfare of Kim because
13 she wasn't thinking too correctly at the time.

14 Q Now, when you approached Ms. Vega did she say to you
15 what's the name of the prisoner you're trying to
16 look up?

17 A No, not prisoner. She knew what she was going.
18 From start A she knew what she was doing.

19 Q All right.

20 A And I'm the only guy that got in trouble for that.

21 Q Are you saying she's done it before?

22 A I don't know if she's done it before.

23 Q You said you're the only guy that got in trouble for
24 it.

1 A Yeah, we both did it. I asked her to do it and she
2 did it. Do you understand what I'm saying?

3 Q Yeah.

4 A If she knew better, she didn't get in no trouble.
5 That's what I meant.

6 Q Did she get in trouble, do you know?

7 A No.

8 Q Now, as a supervisor you were charged with the
9 knowledge of the policies regarding the use of that
10 database; is that true?

11 A Negative.

12 Q No?

13 A No. I never had any interaction, any schooling, any
14 training, anything to do with that system.

15 Q Did the administration allege that you should've
16 known?

17 A No.

18 Q No allegation to that effect?

19 A No allegations. If I ever needed to run somebody
20 when I was on Impact, I'd call the radio room or I'd
21 call them on the phone.

22 Q Now, there was an investigation into this, wasn't
23 there?

24 A Yes.

1 Q And who conducted that investigation?

2 A I think John initially started it.

3 Q You think John launched the investigation?

4 A Yeah.

5 Q Did he conduct the investigation --

6 A John initially started it.

7 Q How did he start it, as far as you understand?

8 A Seeked out the book and for whatever reason thought
9 it was necessary to bring to Highway Patrol's
10 attention.

11 Q He if started the investigation, who took over from
12 there, if anybody?

13 A Billy Webster.

14 Q Okay. Now, what did Mr. Webster do?

15 A It was funny, because Mr. Webster called me over
16 there after speaking to other people I guess, and
17 basically at that point I was trusting nobody. So I
18 brought a recorder over with Mr. Webster, because I
19 don't trust Mr. Webster. Me and him had problems in
20 the past. So from the minute I greeted him, I shook
21 his hand, I said do I need an attorney, he says
22 nope. I said do I need a union rep for Garrity? Is
23 this internal? Nope. That's something to do with
24 corrections as far as investigation. You're aware

1 of that; right?

2 Q Yes.

3 A So in talking to him, again, I recorded him because
4 I knew basically the screws on with me. We went
5 over my whole thing. He told me that no, all I have
6 to do is take this voluntary statement from you, the
7 sheriff had asked for me to look into it, and this
8 file is going to be in case I took one -- he said I
9 took one from Wendy, I took one from Sal and he
10 might've said somebody else. He said all this file
11 is going to do is be put up in a safe place. DCJS
12 comes back after they see this popped up on an
13 audit, that we did something about it.

14 Q Okay.

15 A I said okay. So we went on, and I told him I'd sign
16 a statement. Well, shortly after -- should I get
17 into that?

18 MR. MARTIN: Well, what was the question
19 again?

20 THE WITNESS: Just about Mr. Webster.

21 MR. SORSBY: Just a narrative about --
22 yeah. I can ask questions and I'll guide our
23 discussion.

24 (An off-the-record discussion.)

1 BY MR. SORSBY:

2 Q All right. So other than Mr. Gorman is there
3 another person or another reason that you think that
4 they found out that you were looking at
5 Mr. Colantonio's criminal record?

6 A Yeah, I think he might've mentioned something to
7 Gary Gordon or mentioned something to somebody to
8 tell Gary Gordon. Again, at that time --

9 Q Was there another way that they would've found out
10 that you were looking up somebody else's name?

11 A No, no.

12 Q So other than Mr. Gorman is there anybody else that
13 would've reported you looking into Mr. Colantonio?

14 A Not that I'm aware of.

15 Q At some point did the Department of Corrections
16 adjust the services and DCJS investigate the
17 complaint?

18 A No. As far as I know it was just our employees.

19 Q You're not aware of any DCJS investigation?

20 A No, I wasn't.

21 Q All right. Now, did you ever have a conversation
22 with the sheriff about your use of the E-Justice
23 system?

24 A He passed me out front and he said something's

1 alleged, and he was kind of disgusted with me. He's
2 like, you know, what the hell -- what did you do. I
3 said I don't know. I didn't know I was doing
4 nothing wrong. That was it. And it was quick. It
5 was small talk. He just said well, if it's going to
6 happen, it's going to happen. Because I'm like am I
7 in trouble. I didn't know I was doing nothing
8 wrong. And that was it. That's it.

9 Q So you passed him outside?

10 A Yeah, right in the lobby. One day and that was it.

11 Q Did you have any other conversations with him about
12 this?

13 A None. He hasn't talked me since the day I was
14 arrested.

15 Q Since the day you were arrested?

16 A Yeah, the day I was arrested for that. Didn't talk
17 to me.

18 Q Well, you also talked to him after the court
19 appearance; right?

20 A No, no, no. I'm talking about this now.

21 Q I just want to be clear.

22 A Sorry.

23 Q Okay. And you checked -- you did a warrant search
24 on Mr. Colantonio. Did you get any documents back

1 from that?

2 A Evidently did. A File 15.

3 Q What's a File 15.

4 A That's like a whole criminal history.

5 Q Oh, all right.

6 A That's what the big problem was. It wasn't just
7 warrants. The whole thing spit out everything,
8 which we don't need to know. I knew that he was in
9 jail. But yeah, a whole bunch of documents come
10 out. What I looked at was the warrant check or the
11 warrant. It said Arkansas. Seen that and I
12 shredded it. I shredded it right after that.

13 Q Before you shredded it did you give it to Kim Gorman
14 to show her?

15 A No, absolutely now. We talked about it and she said
16 she knew about it. That he told her.

17 Q But you didn't show her the document?

18 A No. That document didn't leave that office. It got
19 shredded.

20 Q It got shredded by who?

21 A By me.

22 Q You shredded it and not Ms. Vega?

23 A I want to say I did.

24 Q You shredded it?

1 A I shredded it. Yes, I shredded it. I was the last
2 one to look at it. It was in my hands.

3 Q Okay. Now, in regards to this matter were you at
4 some point charged with a crime?

5 A Yeah. They used my internal investigation, which
6 wasn't even an investigation. Everything I had,
7 every piece of paperwork said Internal. He
8 represent me right now, not being -- because they
9 had no right to turn that over. Every piece of
10 paper, every document, if you know about Garrity
11 that shouldn't cross over into a criminal
12 investigation. The investigations have to run
13 parallel. Garrity is its own entity. Criminal can
14 be used in Garrity, but it can't be vice versa.
15 They took my internal investigation --

16 Q Of who?

17 A Of me.

18 Q Okay.

19 A The undersheriff, Pat Russo turned it over only
20 because Billy Webster went up to the DA's office,
21 signed an affidavit telling them that he sat me down
22 and told me that it was a criminal investigation.
23 When in fact I have a tape that says different. My
24 attorney said the minute we go on the stand, he's

1 done. But we never made it to trial because it was
2 costing me so much money and I was putting my kid
3 through so much stuff, it just had to end. So I
4 wound up sucking up a misdemeanor and moving on.

5 Q All right. Now, you said they used your IA report
6 against you?

7 A Yeah, all that stuff was the accusatory, you know,
8 the statements.

9 Q So just to be clear, you did an internal
10 investigation of this incident, the Colantonio
11 incident?

12 A No.

13 Q Okay. Go ahead.

14 A No. It was when I sat down to tell Webster, to talk
15 to Webster. That's what they used against me.

16 Q In the criminal matter?

17 A In the criminal matter.

18 Q Okay.

19 A And they had no right to it. But, you know, I
20 would've had do this, you know what I'm saying? I'm
21 not like that, so I let it slide.

22 Q And so you said you pled to an offense. What was
23 the offense again, do you recall?

24 A The offense was misuse of a computer.

1 Q And was that a --

2 A Unauthorized use of a computer.

3 Q What was that charge, a misdemeanor?

4 A A misdemeanor.

5 Q Do you have a misdemeanor on your record?

6 A Yes.

7 Q What effect, if any, did that have on your
8 employment at the jail? Were you terminated?

9 A Well, I was out of work for ten months without pay.
10 I lost my master sergeant stripes, which meant
11 really nothing to me. It was no more money. I lost
12 my take-home car. I lost the right to go out and
13 work out on the streets like I used to. I got off
14 the ESU team. I lost weekends off after being there
15 25 years. I lost my own office after earning it on
16 my accord and doing a good job at it. They got me
17 pretty good. And I got a misdemeanor on my record.

18 Q So you were suspended for ten months without pay?

19 A Yeah. Seven months they owed me back because that
20 was an agreement between my union and the county,
21 that they had agreed to three months. So I got a
22 little backpay, but that didn't compare to what I
23 spent.

24 Q So there's a lot of things you just said. Ten

1 months was the initial suspension. You did not
2 serve the full ten-months suspension; is that true?

3 A Yes. I was out of work for ten months.

4 Q All right. Now, in regards to payment for those ten
5 months, you got some of that back; isn't that true?

6 A Yes. After going to a hearing they agreed on only
7 being out three months, where they reimbursed me
8 back obviously overtime and stuff I was entitled to.

9 Q All right. So do you recall how many months backpay
10 you got?

11 A Six, something like that. Seven, maybe.

12 Q Okay. Now, did you apply for unemployment?

13 A Yeah. They denied it at first. I had to go to a
14 hearing, which know I found out I had to pay for an
15 attorney, which was not -- they weren't supposed to
16 charge me. But I paid for an attorney to go to a
17 hearing to try to get unemployment.

18 Q Why weren't they supposed to charge you?

19 A Something Keach said, it's against the law in my
20 testimony. You'll see it in there. He said it. I
21 asked him to represent me. He said he won't.

22 Q So who appeared at the unemployment hearing to
23 represent the county?

24 A Nobody. They didn't show up.

1 Q All right. It was in-person that you appeared?

2 A I had to, yeah, and my attorney.

3 Q Who was your attorney?

4 A I forget his name. You can look it up. I probably
5 mentioned it. I don't remember who it was.

6 Q All right. Did you ultimately prevail and get your
7 unemployment benefits?

8 A After, yeah, after some time.

9 Q Why were they saying you were ineligible for
10 unemployment?

11 A I think because of the charges.

12 Q You recall it being misconduct?

13 A No, because they said I was charged with a felony.
14 They thought I was terminated.

15 Q Okay.

16 A I guess.

17 Q At that point do you recall receiving a termination
18 letter?

19 A Never did. It was a suspension. Not termination.
20 It was suspended without pay until the outcome of
21 the proceedings or something like that.

22 Q Okay. Now, during this time -- so did you also
23 apply for workers' compensation at some point?

24 A I couldn't.

1 Q Why?

2 A Worker's comp --

3 Q Compensation, not unemployment.

4 A During this time when I was out? I don't know what
5 you're asking me. I was just out on worker's comp.
6 I had surgeries on my knee, if that's what you're
7 asking me.

8 Q That is what I'm asking. Have you been out on
9 workers' compensation?

10 A Yes. 14, 14 months.

11 Q Okay, 14 months. And that was a result of a knee
12 injury?

13 A Yeah. I slipped in a locker going in on overtime.

14 Q You apply for 207-c benefits?

15 A They denied it.

16 Q Why?

17 A They said I wasn't on duty, which --

18 Q Wasn't work related?

19 A Well, it was work related, yeah. I went in -- in
20 our job we can only punch in after the hour. I went
21 in for a midnight overtime, it was 11:00 o'clock, it
22 was a snowstorm, I came in a little early, went into
23 the locker room, the minute I hit the locker room I
24 went down and my knee went up sideways, swelled up

1 and got hurt. They said I wasn't technically on the
2 clock.

3 Q Now, you got 207-c, but did the county oppose your
4 workers' compensation benefits? I'm sorry. It's
5 been a long day.

6 You did not get 207-c benefits?

7 A Right.

8 Q But did you apply for workers' comp?

9 A Applied for workers' compensation, yep. It took me
10 some time to get things rolling. Four months to get
11 even an MRI, six months to get the surgery. So I
12 don't know whose holdup that was.

13 Q But did you receive the benefit ultimately?

14 A I got them, yes. And I used my own sick time is
15 what I did.

16 Q And the county didn't oppose you receiving the
17 unemployment benefits; isn't that true?

18 A Compensation. Workers' comp, no. They didn't
19 oppose me for that, no.

20 MR. SORSBY: I'm going to take a 30-second
21 break. I'm getting a little horse.

22 MR. MARTIN: Sure.

23 (Whereupon, there was break during
24 proceedings.)

1 BY MR. SORSBY:

2 Q Now, earlier you testified that you would talk to
3 Sheriff Mahar often as a friend. Did you ever
4 complain to the sheriff in his capacity as your
5 friend about some of the things you were going
6 through with Mr. Gorman, the complaints that were
7 made against you?

8 A No. I tried to leave him out of it.

9 Q How about within the context of your employment, did
10 you ever have discussions with the sheriff in
11 regards to the complaints that Mr. Gorman was making
12 against you?

13 A No.

14 Q Okay. Other than Trooper Hawk (phonetic) did you
15 talk to any other state trooper regarding this
16 matter?

17 A I mean I was arrested.

18 Q Did you talk to another state trooper other than
19 Trooper Hawk regarding the February 15th incident?

20 A No.

21 Q Now, and again, I apologize if I forget her name. I
22 think it was Janelle Waite.

23 A Yes.

24 Q She's a state trooper?

1 A Yes.

2 Q And you were still in a relationship with her at
3 this time; isn't that true?

4 A No. I got arrested and all this shit. She kind of
5 took off.

6 Q So she knew about the arrest?

7 A Oh, yeah, I'm sure she did. I was in the newspaper
8 every day.

9 Q Did you talk to her about the arrest?

10 A No. It was already broke off.

11 Q It was broke off before the arrest?

12 A Yeah, probably just right around that area.

13 Q What was the reason for the breakup?

14 A I don't even know.

15 Q Did she break up with you?

16 A Probably too much drama. Yeah, I think so. She
17 broke up with me. I think she was going out with a
18 guy at the academy or something.

19 Q Why was there too much drama if she broke up with
20 you before the arrest?

21 A What's that?

22 Q Why was there too much drama --

23 A Because I was arrested in Brunswick. That's where
24 her camp or her trooper barracks was out of and my

1 picture is on her computer.

2 Q I understand. But you said she broke up with you
3 before your arrest. So I'm trying to understand.

4 A Which arrest are you talking about? We were just
5 talking about the File 15 arrest. I thought that's
6 what you were talking about, which was after my
7 other arrest. I was arrested twice.

8 Q All right.

9 A You got me confused.

10 Q That's okay.

11 A Yeah, after my first arrest she...

12 Q That's when she broke up with you?

13 A And when this hit, fuck, I was like shit, I was a
14 scumbag I guess. Whatever.

15 Q All right. Now, did there come a time you were
16 charged with something in the Troy City Court as
17 well?

18 A For what? Not that I recall.

19 Q Do you know if the Schaghticoke Town Court charges
20 were combined with charges in the Troy City Court?

21 A Not that I'm aware of.

22 Q Just for a final opinion of clarification. You
23 don't recall appearing in Troy City Court regarding

24 --

1 A Something that happened at Schaghticoke?

2 Q Well, specifically the February 15th call with
3 Mr. Gorman.

4 A No.

5 Q Do you recall appearing in Troy City Court involving
6 the allegations of misuse of the DCJS system?

7 A Yeah. It got dropped back down because it was a
8 misdemeanor from County Court to Troy Police Court
9 at the end.

10 Q Okay. So you did appear in Troy City Court on that
11 charge?

12 A Yeah.

13 Q The charge of misusing --

14 A That's where I pleaded guilty to the misdemeanor in
15 Troy Police Court.

16 Q All right.

17 A It went to County Court initially. It was going to
18 be an indictment. They were trying to push for an
19 indictment. But prior to the indictment, McNally
20 said, to the best of my knowledge, tell him to plea
21 to a misdemeanor and that's your final deal.

22 Q And this was because it was a felony; is that true?

23 A Two felonies and a misdemeanor.

24 Q Two felonies.

1 A So he said either plea to a misdemeanor or we're
2 going to indict you.

3 Q Okay.

4 A And at this point when all of this is going on...

5 Q So you ultimately pled to a charge in Troy, you said
6 in Troy City Court, for that incident; right?

7 A For the computer thing, yes.

8 Q Now, you said earlier -- I think you said that that
9 charge was somehow combined with the Schaghticoke
10 charge?

11 A I thought my attorney said something about that,
12 that that'll be that and the other one will be ACOD.
13 I don't know courts. I don't know all that stuff.
14 But whether he somehow get them -- he would know
15 better than me.

16 Q Okay.

17 A All I know is that got ACOD'd, I didn't have to deal
18 with that anymore and I had to plea to a misdemeanor
19 and I could go on with my life.

20 Q Okay.

21 MR. SORSBY: Just go off the record and
22 give me 30 seconds here.

23 (Whereupon, a discussion was held off the
24 record.)

1 BY MR. SORSBY:

2 Q So just doubling back on some things we discussed
3 already today. Do you understand?

4 A Yes.

5 Q All right. Now, during the period of October to
6 November or any time actually, do you recall having
7 a discussion with Mr. Gorman to the effect that he
8 needed to help you repair his relationship with Kim?

9 A No.

10 Q Do you recall telling Mr. Gorman that you need him
11 to help Kim back get together with you?

12 A No.

13 Q Do you recall saying you have to help me get her
14 back?

15 A No.

16 Q Now, Kim Gorman broke up with you in October 2012?
17 What, if any, time does she get back with you?

18 A Never.

19 Q Never. Okay.

20 A We've talked from that day -- from then on. But no,
21 that's never going to happen again.

22 Q And do you move out of the house in October 2012?

23 A No. I think she stayed for a little bit and found
24 an apartment.

1 Q Because you have an apartment; isn't that true?

2 A I have the house, a three-family house. But yeah.

3 Q And she stayed with you?

4 A Yes, she stayed with me.

5 Q Now, when she moved out did she take the child with
6 her?

7 A No. He stayed with me.

8 Q He stayed with you. Okay.

9 So earlier today you testified that you
10 had conversations with Kim regarding Mr. Gorman's
11 accusations. Did those conversations with Kim
12 happen after she moved out?

13 A I think all the way up through. I don't know
14 exactly when we talked about it if she was living
15 there or not. She might've been -- she might've
16 been out. I'm not sure with the date times.

17 Q All right.

18 A But we've talked like I said right up through to
19 this day.

20 Q Okay. She breaks up with you in October 2012. As
21 of December 2012 had she moved out at that point?

22 A I think so.

23 Q Do you recall in 2013 her living with you?

24 A No, no. I have to say no because I'm not sure. I'm

1 sorry. It was a bad time. We had a bad time.

2 Q It was a bad time because she broke up with you?

3 A No. Just a lot going on. I'm trying to worry about
4 my kid, I'm trying to not go to jail. There's a lot
5 of things happening, man.

6 Q Well, I'd like to talk to you a little bit about
7 that.

8 You were in a relationship for 27 years
9 with Kim; right?

10 A Yep.

11 Q That's a long time. How did it affect you when she
12 broke up with you?

13 A A little upset, but in the same time relief because
14 -- and I don't really want to discuss her problems.
15 I mean I don't think there's a point for that. But
16 since the baby we've had some issues. I don't think
17 it's necessary to discuss Kim's, that kind of
18 problem. Correct me if I'm wrong, but it's not fair
19 to her.

20 Q Well, my question simply was, what was the impact on
21 you. And I think you've addressed that, unless you
22 want to add something more about that?

23 A No.

24 Q Okay. You're with somebody for 27 years and they

1 break up with you --

2 A And I knew it was coming. I knew it was coming.

3 Q How did you know it was coming?

4 A Because we had some problems prior, you know.

5 Q All right. And you blame Mr. Gorman for the
6 breakup?

7 A No. Do I blame him for that?

8 Q Yes.

9 A No. I'm the one that cheated. He didn't. How
10 could I blame him?

11 Q Do you blame Mr. Gorman for her finding out that you
12 cheated?

13 A He told her.

14 Q Did that upset you that he told her and that she
15 broke up with you?

16 A Well, initially I asked him to tell me who these
17 were that were spreading the rumors. There was no
18 fact. It was rumors at the time. And rather than
19 festering and annoying him at work and starting
20 shit, I need to know to put it to rest. But that
21 never happened, and all it did was fester into
22 obviously that's why we're here today.

23 Q But it's your belief because Kim told you, right,
24 that John told her about the infidelity; right?

1 A Yes.

2 Q And so were you upset with John for telling her
3 about that?

4 A No, not really. I knew it was coming.

5 Q So if you weren't upset with John for him telling
6 her, why did you call John in October?

7 A And say thank you?

8 Q Yeah.

9 A Because he said he wasn't going to do anything.
10 Because I said -- he'd come to my office and we had
11 the conversations and he says I'm not saying
12 anything. It's rumors. There's no fact and that's
13 that. And then to turn around to hear him he's the
14 one who did it. You know shame on him. That's what
15 I thought.

16 Q So you were upset that --

17 A Disappointed more than upset.

18 Q Again, that he --

19 A That he instead of what he told me, he went around
20 and did what he thought was right.

21 Q So it's your belief that he was telling everybody
22 around the jail that you were having infidelities?

23 A Oh, yeah, absolutely without a doubt. A lot of
24 people were talking about. He was in there saying

1 all kinds of stuff.

2 Q A lot of people were talking about it?

3 A Absolutely. It wouldn't stop.

4 Q Who were some of the other people talking about your
5 infidelities?

6 A A lot of sergeants, a lot of officers. Oh, yeah.

7 Q Can you name a sergeant?

8 A Eric Morin, M-O-R-I-N.

9 Q How about captains? Can you name a captain?

10 A I don't know. Captain Smith, maybe. I don't know,
11 if you talk to him.

12 Q You believe Captain Smith was talking about your
13 infidelities?

14 A Was he? No.

15 Q Okay.

16 A Not to my knowledge.

17 Q I just want to move away from that.

18 Your relationship with Sergeant Maselli,
19 you indicated that you were friends with him. And
20 now how much of a friendship did you have with him?

21 A We hung out on weekends, we went away, we went aways
22 to some drag races and stuff.

23 Q You went to some NASCAR events?

24 A No. Drag racing.

1 Q Drag racing. Okay.

2 A Yep. Englishtown, New Jersey, Pennsylvania.

3 Q Did you have any conversations with Sergeant Maselli
4 regarding Mr. Gorman's accusations?

5 A He knew all about it. It was going around the jail.
6 It was like nobody did --

7 Q So he knew all about it, but did you talk to him
8 about it?

9 A No, not really.

10 Q Okay.

11 A I tried to get this guy out of my mind, trust me.
12 It's not somebody I thought about regularly. When I
13 left work, I left work. I did not think about John
14 Gorman.

15 Q No, I understand that, but you were upset, right,
16 with John; isn't that true? You were upset because
17 --

18 A What are you calling upset? I don't understand.

19 MR. MARTIN: Object to the form.

20 Q The question was -- let's back up.

21 Earlier you testified that you were upset
22 with John.

23 MR. MARTIN: Object to the form. I think
24 he said he was disappointed.

1 MR. SORSBY: I think he said he was upset.

2 We can look back at the record.

3 A Maybe I was both. Upset could be you say the wrong
4 thing and I'm upset now and then we get over it and
5 move on.

6 Q Okay.

7 A If you're saying I'm like holding a grudge past this
8 time, it's just not true.

9 Q Okay. Now, did you have any conversations with
10 Sergeant Maselli regarding your complaint against
11 Ruth Vibert?

12 A Not that I'm aware.

13 Q Did you have any discussions with Sergeant Maselli
14 at all about Ruth Vibert?

15 A No. I got along with her. Like I said, I got along
16 with her up until the time that that -- up until she
17 was hired until that day, me and her were like this.

18 Q Which day?

19 A The day that I found out that she told John. We
20 were fine. I didn't have a bad thing to say about
21 her.

22 Q Do you recall what day that was?

23 A No. We talked about that. The key phone call or
24 whatever -- or I'm sorry. Yeah, when he claims that

1 I took -- I don't know the date. My head is
2 spinning right now with all of these dates.

3 Q That's all right. Do you recall being -- you were
4 suspended in June of 2013?

5 A June 1st I believe.

6 Q Now, do you remember having conversations during
7 that time, before June, do you remember having
8 conversations with Mr. Gorman to the effect that you
9 wanted him to drop the charges against you?

10 A No. I had an order of protection. Why would I ever
11 think about talking to him?

12 Q Well, again, before the order of protection was
13 there any conversations with Mr. Gorman about
14 dropping the charges against him?

15 A You said in June.

16 Q Well, I'm asking you a different question now.

17 A What now?

18 Q Before the order of protection was issued did you
19 have any discussions with Mr. Gorman about dropping
20 the charges against you?

21 A No.

22 Q Okay. Any discussions with Mr. Gorman about
23 dropping the employment claims against you?

24 A No.

1 Q Any discussions with Kim Gorman in regards to having
2 Mr. Gorman drop the charges against you?

3 A No.

4 Q Do you recall Mr. Gorman filing a criminal complaint
5 for harassment against you in March with the Troy
6 Police Department?

7 A I was aware he tried, but I don't know where that
8 went.

9 Q All right. And do you know Captain Sprague?

10 A Sure I do.

11 Q How do you know Captain Sprague?

12 A He's the head of their SWAT team, but we had
13 training together. He also worked up at SOS, the
14 drug unit that I used to work with before he got to
15 be captain.

16 Q All right. And how long had you known him before
17 that?

18 A Probably since, I don't know, maybe '95, '96. I
19 didn't know him before I worked there.

20 Q All right. So did Captain Sprague interview you in
21 regards to these charges?

22 A No.

23 Q Did you have any conversations with him in regards
24 to these charges in the Troy City Court?

1 A No.

2 Q All right. Now, I'm looking back at the transcript
3 in the matter of Vibert versus Rensselaer County
4 Sheriff's Department. Do you understand?

5 A Yes.

6 Q Now, I'm looking at page seven now and I'm reading
7 from line 11. It says:

8 "Q "Have you ever been to his home?

9 "A Yes.

10 "Q How many times?

11 "A I don't know. 20 plus, maybe."

12 Do you recall being to Sheriff Mahar's
13 home more than 20 times?

14 A No. He had said I believe, well, give me an idea,
15 20, 20 plus. So I said 20 plus. I believe that's
16 how that answer went.

17 Q All right. Well, testifying here today --

18 A Yeah, it has to be 20, 20 plus. Yeah.

19 Q Okay. And it says, "how many times has he been to
20 your home?"

21 A Excuse me one second. I don't appreciate being
22 stared at like that. He's staring me down like, you
23 know.

24 MR. GORMAN: I'm not staring at

1 Mr. Martin. I'm just staring.

2 THE WITNESS: No. You're staring. That's
3 not appropriate.

4 (Whereupon, a discussion was held off the
5 record.)

6 MR. SORSBY: For the record, the
7 representative of the plaintiff is allowed to
8 be here and is allowed to look at you. Let me
9 finish. To the extent that he's giving you
10 looks of some sort, then that is not
11 appropriate and I would instruct my client, I
12 don't believe he's doing that but if he is I
13 would instruct that he's not going to give you
14 looks. We're getting close to finishing this.
15 It's a little warm in here.

16 THE WITNESS: Well, he's been doing it,
17 it's intimidating and I don't appreciate it.
18 I'm not even trying to look at him, but I can't
19 stop to...

20 MR. SORSBY: I understand. Well, focus on
21 me.

22 THE WITNESS: I'm trying to, but there's
23 no reason for that kind of behavior.

24 MR. SORSBY: Well, to the extent that --

1 everybody at this table is instructed to not
2 give looks of any kind and to focus on the
3 deposition at hand. All right? So we're all
4 proceeding forward.

5 THE WITNESS: Thank you.

6 BY MR. SORSBY:

7 Q All right. Now, would you say that Sheriff Mahar
8 has been to your house more than six times?

9 A Yes.

10 Q Have you ever been to his house in South Carolina?

11 A No.

12 Q You know that he has a vacation home in South
13 Carolina; right?

14 A Yes.

15 Q And how did you know that?

16 A I've heard about it.

17 Q Did you have conversations with Dan Maselli about
18 that house?

19 A We might've talked about it. Everybody knows about
20 it.

21 Q All right. We may've already talked about this in
22 some form or substance, but I want to direct your
23 attention to a conversation you had with the
24 sheriff, and again, I'm reading from the transcript

1 here of Vibert versus Rensselaer County. Do you
2 understand?

3 A Yes.

4 Q I'm going to read from page nine and this is line
5 21. Question:

6 "Q What is your relationship with Sheriff
7 Mahar now?

8 "A I haven't talked to him in about a year.

9 "Q Why not?

10 "A I just haven't talked to him.

11 "Q Well, you said in early 2013 your
12 relationship with him was good.

13 "A Yes.

14 "Q And now you don't talk to him?

15 "A No.

16 "Q All right. So why did your relationship
17 deteriorate from being good to where you would go to
18 his home frequently and he would come to yours to
19 now where you don't speak to him?

20 "A I feel as though they kind of held me out
21 to dry on a situation that I was involved in.

22 Can you elaborate on what you meant by
23 that?

24 A Yeah. I think when I was arrested with two felonies

1 and a misdemeanor, politicians, whatever they are,
2 they just let me go.

3 Q Politicians. One of whom is the sheriff?

4 A The sheriff now.

5 Q Okay.

6 A So it is what it is.

7 Q Do you believe the sheriff hung you out to dry?

8 A Yeah, he just kind of left me. I don't know why.

9 Q What did you want him to do?

10 A Nothing. Not just disown me, not to talk to me.

11 Q You wanted him to stay in contact with you during
12 this time?

13 A I thought it would be nice if somebody did. Nobody
14 did. They said here, give me your ID and your badge
15 and have a nice day and that was it. That's the
16 last I've talked to either one of them.

17 Q Either one of who?

18 A The undersheriff or the sheriff. So that's that.

19 Q I'm looking at page 81 again of the transcript of
20 Vibert versus Rensselaer County, and I'm reading
21 from page 81. And this is an answer of yours to a
22 question by Mr. Keach, and the question was actually
23 on page 80, line 22. Question:

24 "Q When you were arrested, were you arrested

1 for the interaction with Mr. Gorman?

2 "A Yes. With all that going on at the jail
3 I'm thinking that I'm doing the right thing. I
4 called -- instead of being -- basically all this was
5 personal and involved me and my girlfriend and my
6 extracurricular whatever, you know, whatever. It's
7 personal business. It has nothing to do with the
8 jail or anybody's business. Unfortunately John
9 Gorman decided to bring it in. And he used that as
10 an excuse for everything. I am committing career
11 suicide, I'm doing this, I did that. And nobody in
12 his own mind, he brought all this crazy stuff on
13 himself."

14 What crazy stuff did he bring on himself?

15 A Thinking that I had something to do with taking the
16 keys away from him, or unless somebody's pumping him
17 with information. That's why I said I'd love to get
18 to the bottom of it.

19 Q So he brought all that on himself?

20 A I didn't do it to him.

21 Q How did he bring it on?

22 A I don't know, man. I'd love to know.

23 Q Okay. "Everything the kid got I helped him get, to
24 be honest with you." I'm reading line 15, page 81.

1 Is that true?

2 A Yes, it is.

3 Q Okay. At this deposition there was some discussion
4 by Mr. Keach with you about breaking jaws and past
5 incidents of inmates having their jaws broken. So I
6 want to talk to you about that. Do you understand?

7 A Yes.

8 Q All right. Did you use the reference to breaking
9 Mr. Gorman's jaw because that was the common
10 practice to use that type of terminology at the
11 jail?

12 A No.

13 Q I'm reading from page 98, line three.

14 "Q Weren't you upset with Mr. Gorman because
15 he helped his sister move out of your home?

16 "A No, not upset. I was upset that one, he
17 wouldn't tell me, you know, who was creating all of
18 these problems down at the jail."

19 Now, I thought you were upset with
20 Mr. Gorman because you believed he was talking about
21 your infidelities. Who was the person spreading or
22 talking about all this at the jail?

23 A You have to ask John.

24 Q Okay. But again, I'm going to read it again, line

1 five.

2 "A No, not upset. I was upset that one, he
3 wouldn't tell me, you know, who was creating all
4 these problems down at the jail."

5 You had a belief that somebody other than
6 Mr. Gorman was creating problems at the jail and you
7 wanted him to tell you who that was?

8 A As I testified to, he told me that rumors were
9 coming his way basically that I was doing this. I
10 asked him to tell me who it was. He refused to.
11 Said it didn't make a difference because he has no
12 facts. When he has facts, it'll be a different
13 story. So he wouldn't tell me.

14 Q All right.

15 A That happened on several occasions in my office.

16 Q That type of conversation?

17 A Absolutely.

18 Q With Mr. Gorman?

19 A Yes.

20 Q This would be the period of October 2012 through
21 November of 2012?

22 A Again, I have -- can you reference something that
23 happened then?

24 Q Well, you just said that you had a number of

1 conversations.

2 A Yeah. It was in a time frame before the phone call.

3 Q The second phone call?

4 A Yeah, between the first and the second. Probably
5 somewhere in there, I think.

6 Q All right. Where would these conversations take
7 place?

8 A Right in my office. Right in the door -- when you
9 stood right in the doorway of my office.

10 Q Did you summon Mr. Gorman to come to your office?

11 A No. He'd stop by all the time. He'd stop in.

12 Q All right. Now, you confided with Chief Vibert
13 about the personal things in your life and you also
14 confided with Sheriff Mahar; isn't that true?

15 A What do you mean personal things? I confided with
16 her in my history why I had a problem with John.

17 Q Did you confide with anybody else regarding those
18 issues?

19 A No.

20 Q You talked to Danny Maselli about that?

21 A He knew what was going on. He was my friend. He
22 knew I was doing stuff.

23 Q But did you have a conversation with him?

24 A No. He knew.

1 Q Do you know if Mr. Gorman ultimately filed a
2 workplace violence complaint against you?

3 A I do now. Well, actually, I take that back. Tom
4 Hendry called me and interviewed me on the phone
5 about a complaint he put in.

6 Q All right. Did he also show you the complaint as
7 well?

8 A I don't think he did. No, I never met up with him
9 personally. I talked to him over a phone interview
10 type thing.

11 Q And this was in regards to a workplace violence
12 complaint, is that what you understand?

13 A Yeah.

14 Q Did you give any written response?

15 A No. It was oral interview.

16 Q Did you ever call Tom Hendry regarding this matter?

17 A I had to call him back. He had called me.

18 Q So he called you. Did he get a hold of you on the
19 first call or did he have to leave a message?

20 A I don't believe so. He might've left a message and
21 I called him back. We finally hooked up, he says I
22 got to take a complaint -- or I got a complaint, I
23 got to interview you and you will do it on the
24 phone. And we did it on the phone.

1 Q How long did that last?

2 A Might've been a half hour.

3 Q All right. Do you remember what the violence
4 complaint was about?

5 A Just accusations, you know, that you brought up
6 today. And as I told you, I told him they're not
7 true.

8 Q Okay. So you went -- he brought up all of those
9 accusations and you denied al of them?

10 A Absolutely. I think I even gave him people he could
11 talk to. You know, Chris LaFountain for the hallway
12 and --

13 Q Are you saying you provided corroborating witnesses
14 for your version of what happened?

15 A Yeah, you know, who was there. This one was there.

16 Q Okay. Did he say that he was going to interview
17 those people?

18 A He didn't tell me.

19 Q All right. Do you recall if he went through all the
20 incidents we talked to today?

21 A No, I don't recall.

22 Q Do you recall if he went through most of them?

23 A He went through some of them, yeah.

24 Q All right.

1 A To be honest, when I talked to him I thought there
2 was more, like that he brought up.

3 Q Hendry?

4 A Hendry, Tom Hendry, yeah. As we were talking about
5 different things.

6 Q So you believe Mr. Hendry brought up more accusations
7 by Mr. Gorman against you than what we discussed
8 here today?

9 A I think so.

10 Q Do you remember what those were?

11 A I have no idea.

12 Q Do you remember denying those?

13 A I denied them all. They're not true.

14 Q Okay. And this workplace violence complaint, did
15 you ever get a chance to take a look at it?

16 A No, not that I recall anyway.

17 Q Do you know if Mr. Gorman gave it to Chief Vibert?

18 A You have to ask him. I don't know.

19 Q Okay. Did you have any discussions with Chief
20 Vibert about his workplace violence work complaint?

21 A I don't think I did.

22 Q You don't recall?

23 A Not that I recall.

24 Q Did you talk to Sheriff Mahar in regards to

1 Mr. Gorman's workplace violence complaint?

2 A No.

3 Q How about Undersheriff Russo?

4 A No.

5 Q Other than Hendry is there anybody else you talked
6 with about the workplace violence complaint of
7 Mr. Gorman?

8 A No.

9 Q All right. I'm looking at page 110 now and I'm
10 looking at line eight. And this is the transcript
11 again of Vibert versus Rensselaer County, your
12 transcript. Line 8, 110, "I wanted to stay as far
13 away from him as I could for all of the allegations
14 that he was making against me." True?

15 A Correct.

16 Q Okay. Continuing on, still line ten?

17 "A He was saying this, I did this, and I said
18 stuff about him. Again, career suicide. I took his
19 stripes. He is not going to be a sergeant. I had
20 nothing to do with none of that."

21 Question:

22 "Q What is career suicide?

23 "A I don't know. I guess that -- I don't
24 know. Career suicide is, you know, maybe he will

1 never get nothing."

2 So career suicide meant that he might not
3 get anything; is that true?

4 A That's my opinion of maybe what he was thinking
5 about everything that he was saying. And he said it
6 on a bunch of occasions. He'd just bring it up in a
7 conversation. Transport officers. Based on these
8 accusations that he's putting out there, I guess.
9 You'd have to ask him what he meant by it. But he
10 said it.

11 Q Well, I'm asking you. You used the term career
12 suicide.

13 A No. That's what I heard he exactly said.

14 Q Okay.

15 A I didn't use it. That's not my made-up term.

16 Q Well, let me ask you this, because you were a master
17 sergeant for some time. There are several
18 accusations here that we discussed today Mr. Gorman
19 made against you. If a corrections officer makes
20 several accusations like that at the sheriff's
21 office, is that tantamount to career suicide?

22 A I don't understand. Say it again.

23 Q Okay. I'm trying to gauge the climate at this
24 location, at the correctional facility. If a

1 correctional officer makes a number of accusations
2 against a fellow correction officer or sergeant, is
3 that bad for his career?

4 A No. Why would it be?

5 Q Well, that's an answer. I'm asking you --

6 A If that's what he believes. Same with the other
7 guy. Something's fed that. And that's what I want
8 to know.

9 Q Okay. And I'm asking you would it have had a
10 detrimental effect on his career filing all these
11 complaints?

12 A No.

13 MR. SORSBY: All right. We'll just take a
14 three-minute break and I think we'll be able to
15 wrap it up.

16 (Whereupon, there was a short recess in the
17 proceedings.)

18 BY MR. SORSBY:

19 Q Back on the record. Now, we've been talking today
20 about the deposition you had in the matter of Vibert
21 versus Rensselaer County, and I'm reading from the
22 front page. It says the 4th day of March 2015 at
23 10:00 o'clock at the Law Office of Elmer Robert
24 Keach. Do you remember giving that deposition about

1 that time?

2 A Yes.

3 Q Now, you ultimately received the transcript from
4 your deposition in that matter; isn't that true?
5 You had a chance to review it?

6 A I don't have a copy of that. They sent it for
7 mistakes, if that's that you mean?

8 Q Correct.

9 A Oh, yeah, yeah, I sent it back in.

10 Q You had a chance to review it. Did you find any
11 mistakes?

12 A I don't think so.

13 Q Did you sign the back of the transcript?

14 A Like I was supposed to.

15 Q All right.

16 A I honestly don't believe I read it.

17 Q All right.

18 (Plaintiff's Exhibit 93 was marked for
19 identification.)

20 (An off-the-record discussion.)

21 MR. SORSBY: Mr. Martin, when you have an
22 opportunity can you get his signed page, his
23 certification page for that?

24 MR. MARTIN: Yes.

1 MR. SORSBY: It might be good to have
2 before trial.

3 MR. MARTIN: Yes, I'll try.

4 BY MR. SORSBY:

5 Q All right. Just finishing up with Exhibit 92 that
6 we were talking about earlier, discussing earlier.
7 Do you understand?

8 A Yes.

9 Q All right. Exhibit 92 was a two-page document that
10 Mr. Gorman had prepared as part of his incident
11 report, which is also pages two and three of
12 previously marked Exhibit 54.

13 Now, I'm reading at the end of this -- the
14 last page of this exhibit. It says, "I told him
15 that she can do what she wants and I will be there
16 if she needs help. At which time, he, Patricelli,
17 started yelling again that I betrayed him." Do you
18 recall yelling?

19 A No.

20 Q Do you recall saying "I betrayed him"?

21 A Not in that conversation, but conversations we had.

22 Q So you recall in another conversation saying
23 Mr. Gorman betrayed you?

24 A I believe so.

1 Q When was that conversation?

2 A I don't remember.

3 Q And how do you believe he had betrayed you?

4 A Because he told me what he initially told me. He
5 kept coming to my office telling me how other people
6 were saying this and saying that, and then turned
7 around and told her anyway.

8 Q So again, you felt betrayed because he wouldn't tell
9 you who was giving him all this information?

10 A Right. So we can get to the bottom of it.

11 Q Okay. And then there was a period of silence and he
12 said, "yes, we're through." Do you recall saying
13 you were through in that phone call?

14 A No. I don't recall how it ended.

15 Q All right. Do you recall telling Mr. Gorman at some
16 point that his sister was with Peter Colantonio?

17 A I don't recall that. I don't believe we talked
18 about that kid.

19 Q You don't recall ever having a conversation with
20 Mr. Gorman about Peter Colantonio? You have to
21 answer that.

22 MR. MARTIN: Did you answer?

23 THE WITNESS: Yes. I said I don't recall
24 having a conversation with him.

1 BY MR. SORSBY:

2 Q No. I'll repeat the question, and I didn't say this
3 in the instruction. You have to verbalize your
4 answer. You can't nod yes or no. So I had asked
5 you, had you ever had a conversation with Mr. Gorman
6 in regards to Peter Colantonio?

7 A I don't believe I did.

8 Q Okay. If you never had a conversation with
9 Mr. Gorman about Peter Colantonio, how is it that
10 Mr. Gorman would've launched the investigation of
11 you?

12 A I have no idea. I don't know how he found out. I'd
13 like to know.

14 Q It wasn't because you told him?

15 A No. I don't know how he found out.

16 Q All right. You testified earlier that you were out
17 on leave and there came a time when you received
18 something from the county indicating that there
19 might be a termination; is that true?

20 A Yes.

21 Q And you were out on leave for a total of 14 months?

22 A Just about 14 months.

23 Q And you received a letter from the county after you
24 were out for 12 months?

1 A Before 12 months.

2 Q Before 12 months?

3 A Just before a year's time.

4 Q Okay. And the letter was from the Undersheriff
5 Russo?

6 A Chief Bly. Undersheriff Bly now. It was actually
7 the undersheriff at the time I believe. It was
8 February. It was the undersheriff.

9 Q And the letter indicated you had been out of work
10 for more than 12 months?

11 A No.

12 Q That you would be out of work for 12 months --

13 A I'm coming up on it.

14 Q Okay. And it indicated that you would've been out
15 of work for 12 months on an unrelated -- nonwork
16 related issue?

17 A I don't know the specifics of the letter. It just
18 said that I'm coming up on being out of work.

19 Q Do you recall the letter saying that you had a right
20 to a due process hearing?

21 A Yeah, I would've had the right to a hearing about.

22 Q Okay. Did you ask for a hearing?

23 A No. I asked to go speak to the undersheriff.

24 Q Undersheriff Bly?

1 A Absolutely.

2 Q Now, just to back up. The letter you received from
3 the county about your termination, did you receive
4 that like in certified mail?

5 A Yes, actually. It came certified mail. I wasn't
6 home to get it. There was a sticker on my window.
7 I had to go to the post office to get it. I didn't
8 know what it was. I wasn't even going to go bother.
9 I did get it and time had passed and I only had a
10 couple of days to respond to it. And I seen it and
11 I'm like you have to be kidding me.

12 Q Did you have to sign for it?

13 A Yeah, I signed for it, get it and then I was
14 immediately on the phone with my attorney.

15 Q Who was the attorney?

16 A What the hell's her name? I'll come to me. It's
17 right on the tip of my tongue. A union attorney.
18 Christine Caputo.

19 Q All right.

20 A I called her and asked if I could meet with her and
21 show her the letter.

22 Q And did you?

23 A Yeah, absolutely.

24 Q You showed her the letter?

1 A Yes.

2 Q What did she say?

3 MR. MARTIN: Object to the form.

4 MR. SORSBY: I'm asking what she said.

5 MR. MARTIN: I know. Don't answer. It's
6 attorney-client communication.

7 MR. SORSBY: Well...

8 MR. MARTIN: Don't answer. I mean, I'm
9 not sure that I care, but I don't want to waive
10 her rights.

11 MR. SORSBY: She's not here to assert her
12 own privilege. That's fine.

13 MR. MARTIN: You can maybe say what did
14 you do after you talked to her.

15 A She gave me some options to do and I suggested that
16 I go down and talk to him and tell them basically my
17 situation. And that's what I did; I went -- called
18 them and said can I have a meeting with you, this is
19 crazy. Are you going to possibly terminate me over
20 this. If you want me to keep talking about it?

21 MR. MARTIN: This is your conversation
22 with Bly; right?

23 THE WITNESS: Yeah.

24 MR. MARTIN: Sure.

1 A Okay. So he gave me the meeting. I sat down, I
2 brought all my paperwork. I said look at me, it
3 took me four months to get an MRI, six months to get
4 surgery. In that time I was using all my sick time.
5 I said now I need recovery time. I'm going to be
6 out past the year. I just had surgery on my knee.
7 He goes I wasn't aware of all this. I said this is
8 the facts. I'm not trying to do anything here.
9 Anyway, long and short is he said that as long as
10 the doctor signs a document saying what my return
11 time would be, it would be okay. And I went back to
12 the doctors, which I believe my next day was an
13 appointment, and he wrote down that I go could
14 return, if everything went good, all my physical
15 therapy was by May 1st, and I did.

16 BY MR. SORSBY:

17 Q So you never had a due process hearing; isn't that
18 true?

19 A That's true.

20 Q And did they send you for an independent medical
21 evaluation?

22 A Yes, they did.

23 Q So they sent you to see a doctor retained by the
24 county?

1 A Yes. Seen him on a couple of occasions.

2 Q And this was after your meeting with Undersheriff
3 Bly?

4 A Prior to it.

5 Q Prior to?

6 A Prior to the letter.

7 Q Okay. All right. Now, Undersheriff Bly said if you
8 got a doctor's note saying that you'd be back in a
9 couple of months. Did you get that doctor's note?

10 A Absolutely.

11 Q And that was from your personal doctor?

12 A Well, the person who I was under the care of.

13 Q And were you back in a couple of months?

14 A I was back May 1st.

15 Q All right.

16 MR. MARTIN: 2016?

17 THE WITNESS: This year, yeah.

18 BY MR. SORSBY:

19 Q And did you receive any letter from Chief Bly as
20 follow-up to that letter or that meeting, excuse me?

21 A No.

22 Q And just for clarification. How many months were
23 you out of work on leave? You received the letter
24 from the undersheriff --

1 A I went out February 22nd. I received the letter
2 prior to the next February, which would've been the
3 year, and I was out until May after the February.
4 February, March, April, May. 13 months.

5 Q Okay.

6 A Or 12 -- 15 months. No, wait a minute. You got me
7 confused now.

8 MR. MARTIN: 14, I think.

9 A Fourteen. Yeah, I'm sorry. 14 months I was out.

10 Q Okay. All of these things that we talked about
11 today, the incident reports, all of these things,
12 the phone call you made to Mr. Gorman on February
13 15th, if Kim hadn't broken up with you none of this
14 would've happened; isn't that true?

15 MR. MARTIN: Object to the form. You can
16 answer.

17 A It was coming. So it was coming. Again, I had
18 nothing against the guy. He looked out for his
19 sister. He said it. That was it. All this other
20 stuff transpired somehow. Somebody stirred the pot
21 and created a bunch of problems. Maybe you'll get
22 to it at the end of it all. I don't know what to
23 tell you. I did nothing to hurt this kid, even
24 after it was over. He never lost anything. He was

1 still a sergeant, he was still doing the keys.
2 Until he lost his stripes is when he lost his mind
3 down there when everything started going on. I had
4 nothing to do with it.

5 Q He lost his mind? What do you mean by that?

6 A Yeah, he started all kinds of problems down there.

7 Q Like what kind of problems?

8 A Saying a bunch of stuff.

9 Q Like what stuff?

10 A Created career suicide, he's out to get me, he did
11 this to me. I did nothing to him.

12 Q You mean filing of incident reports, things like
13 that, workplace violence complaints?

14 A I got it out for him or...

15 Q That was him losing his mind?

16 A Yeah. Normal people don't act like that. Nothing
17 happened to him. Nothing.

18 Q Okay.

19 A Nope. I did nothing to him.

20 Q Now, you said you wanted to know who was stirring
21 the pot down there. Isn't it true that you believe
22 Mr. Gorman was stirring the pot by filing all of
23 these reports, making these accusations?

24 A He was supposedly getting this information from

1 somewhere. I took him off the key control, who said
2 that? Who said it? He didn't get off it. Who said
3 it?

4 Q Well, didn't he say it? He's the one making the
5 statement.

6 A Somebody must've told him; right? Did he get taken
7 off? No.

8 Q Are you saying he didn't get taking off the --

9 A I'm telling you he didn't get taken off the keys.
10 So who said it to make him believe that he was
11 getting taken off? Do you know what I'm saying?
12 Nothing happened to the guy. Nothing. The only
13 thing that happened to him is he got busted down to
14 a CO because he wasn't reachable on the list. And
15 that's out of my hands. I have nothing to do with
16 it. The county executive's son-in-law was in the
17 same position he was. He also lost. He didn't get
18 picked. That's a county executive son-in-law. I
19 did nothing to this kid.

20 Q Right. Well, I don't know if it would be
21 appropriate at this time to ask you about the civil
22 service list. You're not the best person --

23 A I don't even know about that. That's nothing to do
24 with me.

1 Q So we won't go there.

2 A All right.

3 Q I was just asking you who you believe was stirring
4 the pot.

5 A I don't know. He's going to have to tell you that.
6 And if he does. Because nothing -- any of these
7 accusations that he's saying happened, nothing
8 happened to that kid. Nothing. He was still a
9 sergeant, he still did the key, he still did
10 transports, everything right up until the fact that
11 he didn't make it to permanent sergeant. And I had
12 nothing to do with any of it. That's Civil Service.
13 I did it. It happened to me. When I first got
14 hired in that jail I was laid off for ten months
15 because somebody told me just pass the test. And
16 that's what I did. And I couldn't believe that I
17 was laid off. So I don't know. I don't know, man.

18 Q Are you aware that Chief Mahar -- Sheriff Mahar,
19 excuse me, had a conversation with Mr. Gorman
20 regarding your complaint against Ruth Vibert for
21 releasing confidential information?

22 A I mean I know people were interviewed, so I imagine
23 he was one of them because he was smack dab in the
24 middle of it.

1 Q Okay.

2 MR. SORSBY: Give me one second. Off the
3 record.

4 (Whereupon, a discussion was held off the
5 record.)

6 BY MR. SORSBY:

7 Q I just had a quick follow-up question, something I
8 was curious about. I want to direct your attention
9 back to the beginning of our conversation today
10 about the first call in October of 2012. Do you
11 understand?

12 A Yes.

13 Q All right. Now, you had called Mr. Gorman and you
14 said thank your wife, thank your brother, thank you.
15 Right?

16 A Hm-hum.

17 Q Now, earlier you had testified that you felt
18 betrayed by Mr. Gorman. Isn't it also true that you
19 felt betrayed by his wife and Mark Gorman as well?

20 A Well, definitely Mark because he was part of it. He
21 done some stuff.

22 Q Did you feel betrayed by Mr. Gorman's wife as well
23 as part of that?

24 A All of them, to be honest with you. I didn't know

1 who was against me at the time.

2 Q All right. And it's because you felt betrayed that
3 you called Mr. Gorman at work, isn't that true, that
4 first phone call?

5 A No. Because I felt betrayed because I called him?

6 Q Yeah, I'm asking you --

7 A Oh, that's the reason why I called him?

8 Q Yes, that's what I'm asking you.

9 A Yeah, because, you know, basically what he told me
10 and I didn't do it.

11 Q All right. Just one final follow-up question on
12 that. When you said "thank your brother, thank your
13 wife, thank you," what were you saying thank you
14 for? Was that for telling Kim about the affairs?

15 A Me and Kim talked prior to that phone call I believe
16 and she kind of told me that they all talked and she
17 was up at their house and stuff like that. That's
18 what I believe that initial phone call was for, but
19 I don't remember. It's so long ago. I don't
20 remember exactly. But again, it was just off color,
21 hey, thanks for basically doing what you said.

22 Q And again, earlier that day or earlier that week,
23 the first week in October, you had a conversation
24 with Kim, we're saying 2012 here, and that's when

1 she broke up with you; right?

2 A Yeah, in the beginning.

3 Q And during that breakup conversation she also told
4 you that she found out about the adultery from
5 Mr. Gorman and --

6 A Her brothers.

7 Q Her brothers; right?

8 A Yes.

9 MR. MARTIN: Object to the form. They
10 weren't actually married. I'm not sure if it's
11 adultery. It's a technical thing.

12 BY MR. SORSBY:

13 Q All right. Just to clear up the record. During the
14 breakup conversation Kim told you that she found out
15 the relationships you were having with other women
16 through Mr. Mark Gorman, John Gorman and his wife;
17 isn't that true?

18 A Yeah, I don't know if she included the wife, but I
19 must've included her.

20 Q And that's why you felt betrayed?

21 A I felt betrayed because he came to my office and
22 told me all of these allegations, again on several
23 times, and calling him out on it and he wouldn't
24 tell me, and then right after all of a sudden Kim

1 finds out. So basically he took the information
2 that these people were telling him, whomever they
3 were or if they were even there, and told her.

4 Q Okay. So your conversations with Mr. Gorman where
5 he came into your office telling you these things,
6 they were before the breakup with Kim?

7 A Yes.

8 Q And they were before the phone call that you had
9 with Mr. Gorman?

10 A Yes. They were leading up to everything. They were
11 initial and then everything started festering after.
12 But yeah, they were initial.

13 Q Okay. But I just want to clarify one thing. In
14 addition to feeling betrayed by Mr. Gorman, you felt
15 betrayed by Mark Gorman and his wife as well; isn't
16 that true?

17 A Again, I might've just thrown his wife in there
18 assuming that she probably conversated with him or
19 whatever. But Mark I know he did say stuff.

20 Q In regards to?

21 A The same thing, based on what Kim told me, that I
22 was out having affairs and whatever, he heard
23 rumors.

24 Q All right.

1 MR. SORSBY: Let's go off the record for
2 one second. I'm actually going to stay on the
3 record for one moment.

4 Mr. Patricelli, I'm done with my questions
5 for you. Mr. Martin, have you reached out to
6 Ms. Swanberry in regards to the complaint that
7 Mr. Patricelli had made against Mr. Gorman?

8 MR. MARTIN: She has reconfirmed that
9 Exhibit 91 is it.

10 MR. SORSBY: And you showed her Exhibit
11 91?

12 MR. MARTIN: Yes. And I asked her to send
13 anything that she had. She goes all I've got
14 is this, which was Exhibit 91. I said are you
15 sure there is nothing else. Yes, I'm sure
16 there's nothing else.

17 MR. SORSBY: And just for my curiosity,
18 did you show her the response she gave you
19 indicating that that document was attached?

20 MR. MARTIN: Yes. And actually I told her
21 to look at paragraph six I think it was. Yeah,
22 I did.

23 MR. SORSBY: Okay. And she indicated to
24 you that the document she affixed with her

1 response was Exhibit 91?

2 MR. MARTIN: Yes. I think -- well, we'll
3 see what the testimony is on Thursday.

4 MR. SORSBY: Okay. We'll see what the
5 testimony is at trial. But at this point
6 though we won't call her in.

7 All right. I think that's -- well, while
8 we're on the record just one further thing.
9 Are you going at the get the supplemental
10 response?

11 MR. MARTIN: Not by Thursday I don't
12 think. I might pick it up on Thursday.

13 MR. SORSBY: Okay. And to be clear, it's
14 what we discussed earlier in regards to you
15 delivered two boxes of documents, which is
16 Defendants' supplemental response to
17 Plaintiff's second discovery.

18 MR. MARTIN: Oh, I thought you were
19 talking about additional material to supplement
20 sort of the time from when I gave you stuff.

21 MR. SORSBY: No, no, I'm not talking about
22 Rule 26 disclosure.

23 MR. MARTIN: Okay. Are you talking about
24 the actually disclosure? I will get you that.

1 Yes.

2 MR. SORSBY: The reason why I'm bringing
3 it up is, remember the court ordered that you
4 have to -- whatever response you give us, the
5 supplemental response had to have a cover sheet
6 indicating what it was in response to. And you
7 can refresh your recollection by looking at the
8 order.

9 MR. MARTIN: Right, right.

10 MR. SORSBY: I just want to make sure
11 we're complying with the court order, because
12 you also indicated something to the effect you
13 would indicate that the documents you disclose
14 to the extent that there's --

15 MR. MARTIN: Attorney-client.

16 MR. SORSBY: Right. You indicated that's
17 --

18 MR. MARTIN: We're waiving that.

19 MR. SORSBY: You're waiving that. Right.
20 You said you would do that.

21 MR. MARTIN: So I need to update the
22 response to reflect that.

23 MR. SORSBY: Right. Again, I mean maybe
24 two minutes to write it.

1 MR. MARTIN: Yeah, I'll get you that.

2 MR. SORSBY: Just a cover sheet I guess.

3 I just want to say, we know what we -- because
4 you came here and delivered documents and we
5 had no indication that one, you delivered them.

6 MR. MARTIN: I see what you mean.

7 MR. SORSBY: So for your own benefit you
8 should indicate that you delivered those
9 documents. At that time they were all that you
10 had; right?

11 MR. MARTIN: Yes.

12 MR. SORSBY: And that you waived the
13 attorney-client privilege to the extent that
14 those documents that are in there. And that --

15 MR. MARTIN: More than that. Not just the
16 documents that are in the box, because those
17 are really just the e-mails. I think your
18 request was any e-mail that used the word
19 Gorman.

20 MR. SORSBY: Right. That's true.

21 MR. MARTIN: So that's really what we're
22 responding to. So we just said sure, here it
23 is. And it had some attorney-client stuff in
24 it, but we said we're going to let it go.

1 MR. SORSBY: And you have a very good
2 point. Perhaps on that if you'd like to
3 indicate that to the extent whatever other
4 documents you've released that you asserted
5 attorney-client privilege to, you waive that as
6 well. That way you don't have to --

7 MR. MARTIN: It's all e-mail anyway. All
8 e-mail.

9 MR. SORSBY: Okay. And then you can also
10 indicate that as always you will update per
11 Rule 26 whatever other documents you have.

12 MR. MARTIN: Sounds doable.

13 MR. SORSBY: Sounds good. If you can get
14 that to me by Thursday, that'd be great.

15 MR. MARTIN: I'll try and get it
16 beforehand.

17 MR. SORSBY: All right, gentlemen, we all
18 have places to go. Thank you very much.

19 - - -

20 (Whereupon, at 4:55 p.m. the examination of
21 ANTHONY PATRICELLI in the above-entitled matter
22 was concluded.)

23 (Exhibits were retained by counsel for
24 plaintiff.)

C E R T I F I C A T I O N

I, DIANE DALY-GAGE, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby CERTIFY that prior to being examined, the witness named in the foregoing deposition was duly sworn to testify the truth, the whole truth and nothing but the truth.

That said deposition was taken down by me in shorthand at the time and place therein named and thereafter reduced by me to typewritten form and that the same is a true, correct and complete of said proceedings.

Before completion of the deposition, review of the transcript was required. If requested, any changes made by the deponent (and provided to the reporter) during the period allowed are appended hereto.

I further certify that I am not interested in the outcome of this matter.

Witness my hand this _____ day of _____, 2016.

DIANE DALY-GAGE

CERTIFICATE OF OATH

STATE OF NEW YORK)

COUNTY OF)

I, Anthony Patricelli, hereby certify that I have read the transcript of my testimony taken under oath; that the transcript is a true and complete record of what was asked, answered, and said during the examination in the above matter, and that the answers in this transcript, as given by me, are true and correct, except for the changes and/or corrections indicated on the Errata Sheet attached hereto.

ANTHONY PATRICELLI

Subscribed and sworn to
before me this _____ day
of _____, 2016

Notary Public

1 ERRATA SHEET FOR THE TRANSCRIPT OF:

2 Case name: John Gorman v. Rensselaer County, et al
 3 Dep. Date: June 20, 2016
 4 Deponent: Anthony Patricelli
 Place: Albany, New York

5 CORRECTIONS

6	PAGE	LINE	CHANGE FROM:	CHANGE TO:
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21 Under penalties of perjury, I declare that I have read
 22 the foregoing document and that the facts state in it are
 true.

23 _____

24 Date

Signature

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Anthony Patricelli

BY: Patrick Sorsby, Esq.

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